

Second Edition.

A

Full, Faithful, and Impartial

REPORT

OF THE

TRIALS

OF

MESSRS. H. and M. HANBIDGE, W. GRAHAM, George
GRAHAM, J. FORBES, and W. BROWNLOW,

On an Ex Officio Information,

*Filed by the King's Attorney-General, in the
Court of King's Bench,*

FOR AN ALLEGED CONSPIRACY, AGAINST

*His Excellency, the Marquis Wellesley, Lord
Lieutenant of Ireland, &c. &c.*

And a Riot in the Theatre-Royal,

On the 14th of December, Last,

With the Speeches in full, of the ATTORNEY and SOLI-
CITOR GENERAL—FOR THE DEFENCE,
Messrs. NORTH, DRISCOLL, AND JOHN-
SON.—WITH THE CHIEF-JUSTICE'S
CHARGE TO THE JURY.

Taken in Short-Hand, by an Eminent Reporter.

DUBLIN,

Printed and Published by J. CHARLES, No. 57, Mary-street,

1823.

Price 1s. 8d.

Important Trial.

Court of King's Bench,

February 3d, 1823.

At the early hour of seven o'clock this morning, the avenues to the Court of King's Bench were blocked up by lawyers, dressed in their gowns and wigs, reporters, and those interested in the proceedings of the approaching Trials.—The doors were not thrown open till nine, when the most unparalleled disorder and outrage which was ever exhibited in the annals of the King's Bench, took place in the Court; the rush was dreadful, skirts of coats and tails of lawyers gowns rent from the bodies, were torn off in every direction, and happy was the man who could save his arms and legs from being broken in the scuffle, even to get within the outer doors. The Sheriffs and their Officers were thrust aside indiscriminately—and with great difficulty could our Reporter obtain even standing room in a most perilous situation.

At a quarter past nine o'clock, the Chief Justice, Mr. Bushe; Judges Burton, Jebb and Vandeleur, took their seats on the Bench, when

The Attorney General rose, addressed the Court, and said, that in the absence of the traversers and their counsel, he would not make any observations to the Court, and as the pressure was so extremely great, he attributed their non-appearance to an inability to make their entry.

Shortly, however, the Traversers' Counsel made their appearance, and the Attorney-General said, he would take for granted, that all the jurors who were summoned, were returned on the Pannel—to this point he would beg to have the bailiffs examined.

Mr. Johnson, Counsel for the Traversers, begged that the Pannel, before it was called, should be first signed by the Sheriff, otherwise it could not be called such—he was supported in the argument by Counsellors Scriven and Driscoll, but the Attorney General contended, that the rule lay with the Court, to act differently, and also, that it was the uniform practice of the King's Bench, to extend the Pannel when the Sheriff failed in giving a sufficiently large Pannel.

Lord Chief Justice so ruled it, that the Court may proceed without the Pannel being signed by the Sheriff, and also in extending it.

The Attorney-General stated, that the learned predecessor of the Lord Chief Justice said, that he would stay until 12 o'clock at night, until justice were accomplished, on a former occasion; he also begged that the Bailiff should be sworn to the service he had done—when a number of Gentlemen were called on a fine of 20l. and afterwards on that of 50l.

The Traversers were called by the Crier, severally ; and after proclamation for the Jury to be impanelled, the Attorney-Gen. requited to know, if the *Special* Jurors had been all summoned ; and if so, was the Sheriff ready to prove the fact ; the answer was in the affirmative.

Here the prisoners were called a third time.

Mr. Blackburne.—We apprehend this is not the proper pannel ; it must be authenticated. The Court cannot act upon the pannel without legal evidence or official authentication. I have no objection, however, to the calling of the pannel before it be signed.

The pannel was then called.

William Snell Magee,	Wm. Sparrow,
J. Chambers,	S. Taylor,
R. Allen,	G. Boileau,
Francis Biggs,	

The Chief Justice interrupted the further reading of the pannel by addressing the Sheriff, and directing him to still the noise, and remove some obtruding persons into the hall.

Mr. Solicitor-General and Mr. Serjeant Lefroy now entered the Court. The pannel proceeded.

G. W. Boileau, G. Beaumont,

Mr. Sheriff Cooper—I cannot get the rioters to move.

Chief-Justice.—Take them into custody.

James Wyon,	A. Hargrave,
—— Cox.	Thomas Wright,
George Alker,	E. Armstrong,
Thomas Crawford.	N. M'Kenny,
F. Alexander.	Thomas Tracy.
Maurice Law,	N. Walker,
W. Milling,	John Jones,
W. Talbot,	P. Cockburn,
R. Stubbs,	William Osborne,
J. Baker,	William Smith,
James C. Smith,	Thomas Hunt,
Thomas Parker.	William Taylor,
J. Johnstou,	Ralph Shaw.
John Caldwell,	Thomas Cusack,
Arthur Battersby,	George Gunn,
Thomas Cusack,	R. Annesley,
R. Chambers,	John Mallett,
A. Dollard,	P. Kirwan,
Wm. Baker, jun.	W. Osborne,
J. Jackson, jun.	R. Fletcher,
Francis Mills,	Able Bass,
R. Connery,	J. Hendrick,
	J. Chambers.

Of the above named Gentlemen, 47 appeared.

The Attorney-General said it was necessary that the whole pannel should be called on fine; and some more were added to the Pannel.

The Traverser's Counsel objected to the amount, after the Pannel had been gone through. Mr. Driscoll required the signature of the Sheriff to it, which was granted.

The Traversers were then severally placed upon their Trials, the Jury were then sworn.

We did not hear that the Traversers objected to a single Juror--but the Attorney-General, on the part of the Crown, objected to several highly respectable characters.---

THE ORANGEMEN.

W. S. Magee---challenged.

Francis Mills. (sworn).

George Alker---challenged.

Mr. Perrin.---The challenge cannot be; the oath had begun to be administered.

The Attorney-General.---This is a strange objection.

Mr. Perrin.--It has been so ruled in the case of the King v. Brandreth.

Attorney-General.---The Officer of the Court will state the practice; and whether he went as far as the words "well and truly try."

Mr. Serjeant Lefroy.---It is a rule of practice, not of law. The whole oath was not administered.

Chief-Justice.---Let the Juror be re-produced.

Officer.---Stand bye, Mr. Alker, you are not sworn.

James Wyon, (sworn,)

John Hendrick, (stand by,)

Thomas Fry, (sworn,)

Robert Stubbs, (stand by, unsworn) challenged by Crown.

Nathaniel Walker, (do. do.) do.

John Baker, (sworn,)

John Jones, (stand by, unsworn) do.

Elzo Smyth, (do. do.) do.

Peter Cockburn, (do. do.) do.

Thomas Parker, (sworn,)

William Osborne, Castle-street, (stand by, unsworn,)

John Johnson, (do. do.)

William Smith, (do. do.)

John Caldwell, (sworn,)

Arthur Battersby, (stand by, Mr. Battersby;)

Thomas Hunt, (do. do.)

Paul Chambers, (do. do.)

William Taylor called on pain of 50*l*.

S. Oldham, (stand by unsworn,).

George Cutter, (ditto, ditto,)

Ralph Ham, (ditto, ditto.) All challenged by the Crown

R. Dollard, (sworn,)

George Gunn, (ditto,)

William Dickenson. (unsworn,)

R. Annesley, (sworn,)

William Geoghegan, (not sworn) Crown,

Isaac Tyndall (sworn,)

This formed a Jury, and the unsworn departed.

Mr. Driscoll asked for a list of witnesses on the part of the Crown. He was willing to concede a like privilege. And he here wished the witnesses removed.

Abraham Hargrave, (sworn,)

Mathew Lamb, (did not answer,)

Edward Armstrong, (sworn,)

William Milling, (stand by,)

Neill McKenny, objected to by Mr. Johnson, as having expressed opinions on the question.

C. J. State the question you mean to propose to the juror.

Mr. R. J. I wish to ask whether the juror has said, there was a conspiracy.

C. J. The question cannot be put.

Challenge withdrawn.

Mr. McKenny, (sworn,) John Stanley, (stand by, unsworn.)

The following respectable Jury remained in the Box, and answered to their Names :

Francis Mills, Foreman,
James Wyon,
Abraham Hargrave,
Edward Armstrong,
Neill McKenny,
Thomas Fry
John Baker,
Thomas Parker,
John Caldwell,
Richard Dollard,
Richard Annesley,
Isaac Tyndall,

Counsellor Green opened the pleadings, and stated, that this was an ex-officio information, filed by his Majesty's Attorney-General, against the Traversers, it consisted of two informations.

First Count stated, that on the 14th December, in the 31st year of the King, they repaired to the Theatre, for the purpose of insulting his Excellency the Lord Lieutenant of Ireland.

Second Count, for conspiring generally to create a riot in the Theatre.

Third Count, for having conspired to assault the Lord Lieutenant.

The 2d information. 1st Count, after preliminary averments that defendants with others unknown did publicly insult, groan, and hiss his Excellency, &c.

2d Count, that the said Traversers did so continue to act for one hour and upwards.

Mr. Driscoll for the prisoners---My Lords, before the Attorney-General commences his statement, or enters into evidence for the prosecution, I have to pray your Lordships, that as the informations in this case are dissimilar, different judgements may be given.

Chief-Justice---In felony and stealing the informations are dissimilar, and yet the same judgment is given. How can you make such an application in this case.

Mr. Robert Johnson---My Lords, we demand a precedent from the other side ; a case in which it has been done " in invitum."

Mr. J. S. Townsend, (for the Crown)---There is no precedent for diversity of judgment, excepting in what is called *villainous* judgment, and that is only in capital cases.

Chief-Justice---Precisely so ; therefore the Court cannot grant the application for which the Traversers' Counsel have contended.

Mr. North rose to support the application of Mr. Driscoll.

Chief-Justice---I could wish, Mr. North, that you had risen before the Court had decided the point. I am most unwilling to deprive the Traversers' of the assistance of their Counsel, and on this account I shall attend to any observations that you may offer.

Mr. North---I thank your Lordships, and I beg to ask, my Lord, if one of the prisoners be found guilty on one count, and some on another, and supposing them anxious to make an application for a new trial, in which they must all concur, how is it possible unless there be a dissimilarity of judgement and evidence, for your Lordships to say, whether the Traversers' are entitled to such a right either collectively or individually.

THE ORANGEMEN.

Chief-Justice---We do not consider this a valid objection.

Mr. Driscoll then applied to the Attorney-General for a list of the witnesses for the Crown. In making the application, he was willing to grant to the Attorney-General a privilege of the same extent which he required for himself.

The Attorney-General did not feel disposed to comply with the application of Mr. Driscoll.

Mr. Driscoll further required that the witnesses for the Crown should be removed from Court.

The Attorney-General was willing to agree ; & he begged to state, that any concession which he could with propriety grant should be made to the Counsel for the Traversers. But he begged to state, that none of the witnesses for the Crown, were in Court ; at least, he could positively declare, that he had given orders that they should not be allowed to be present. At the same time he said, he had no objection that any of the witnesses for the Traversers' should remain in Court.

Chief-Justice---That being the case, I shall have the regulation of the whole business between the parties concerned.

Mr. Richard W. Greene now opened the pleadings. The declaration contained many counts, and there were besides two informations ; one with three, the other with two counts.

First count stated that on the 14th December, in the 3d year of the King, they repaired to the Theatre for the purpose of insulting his Excellency the Lord Lieutenant of Ireland.

Second count, for conspiring generally to create a riot in the Theatre.

Third count, for having conspired to assault the Lord Lieutenant.

The second information. First count, after preliminary averments, that defendants, with others unknown, did publicly insult, groan, and hiss his Excellency, &c.

Second count, that the said Traversers' did so continue to act for one hour and upwards.

The Attorney-General rose at half-past twelve o'clock, and spoke as follows :---

My Lords, and Gentlemen of the Jury. It becomes my duty to state the grounds of the present prosecution with the evidence on which it is to rest for support. My Lords---often as it has been my lot to have been a public prosecutor ; often as I have appeared to fulfil my duty to the Executive ; frequently as I have been engaged for private individuals, I do most solemnly declare, that I never approached this venerable Court with a more deep-felt anxiety, or addressed a jury under such embarrassing circumstances. My Lords, this is no ordinary case, nor is it a common-place occasion ; It is a case, Gentlemen, in which although the lives of the parties are not concerned, nevertheless, if the facts charged be proved, it is a case in which heavy and exemplary punishment awaits the Defendants. It is a case, my Lords, as my learned friend who opened the pleadings has told you, in which it will be proved that a deliberate, pre-concerted effort was made to assault the Representative of Majesty, and further, to drive him out of this country. Gentlemen, I cannot smooth or soften down facts : this is really the true complexion of the case at present before you. Gentlemen, I should indeed

blush for the place of my birth, if I did not live in a country in which the mere mention of the facts which I shall disclose did not excite your indignation and abhorrence. I do not come here as the representative of Lord Wellesley. I do not come here to seek reparation for the injury and the outrage that has been inflicted on that Nobleman; but I come here, Gentlemen, as the representative of the Majesty of the Law, to demand justice on a desperate, though contemptible gang, who have confederated to put down the King's representative, merely because he obeys the King's commands.

My Lords, I know the feelings of the exalted and illustrious personage against whom this villainy has been committed—I know that his elevated mind spurns at not having been exposed to any NOBLE danger; but as there is “some sort of good in things evil, so has his Excellency's mind been cheered by that great and glorious burst of public feeling, which, in its mighty circumference of circle, has surrounded the object of its admiration, and concealed from his admiring view, the dark spots that environ the hallowed HALO. Gentlemen, it now remains for me to put down by law, the atrocious gang, whose hearts were so sublime, (and thanks be to Heaven so solitary) in iniquity, as to conceive and perpetrate an object of such atrocious ferocity. Gentlemen, on this occasion I have no object—no feeling but one—namely, the attainment of public justice; and believe me when I say that I shall go away humbled and self-reproached from this Court, if I do not satisfactorily demonstrate that a foul conspiracy existed against the person and the government of the Marquis Wellesley. Gentlemen, the facts which I shall lay before you, are, in my mind, so clear and palpable, that I protest to Heaven, I should think I had committed a base dereliction of my official duty, had I not arraigned these men here to day, before God, their King and their Country. You are all aware, Gentlemen of the Grand Jury, I will not be so uncandid as to conceal from you my strong conviction that public justice had not been done on that occasion. In all my experience of the troubles and political agitations of the last five and twenty years, I do most solemnly asseverate, that I never heard, that I never met with a case in which the facts were so conclusive. I wish to be understood, as throwing no imputation on the Grand Jury, the affair is between God and their consciences. It is not my business to arraign the Sheriff who impannelled that Jury, he is not on his trial. It is not my business to denounce the Grand Jury, they are not on their trial, but the time may come, and at no very distant day, when in another place, I shall not shrink from the efficient discharge of my public duty, should there be a further recurrence to this transaction. I entreat the indulgence of the Court for having so far given way to my feelings. I implore the attention of the Jury while I return to the case before them, and detail the dark and dangerous ramifications into which it branches and extends.

Gentlemen—I shall commence so far as the 4th of November, the anniversary of the birth day of King William. Gen-

Gentlemen, perhaps it is no part of my duty to rescue History from misrepresentation, or to defend the memory of the illustrious dead; but as one anxious to preserve the memory of King William from the contaminating influence of the ignorant admiration of the Traversers, in vindication of the memory of a good man and a great King, I raise my voice against the ludicrous idolatry, against the millinery and mantua-making devotion of these fanatical politicians. I claim for King William the merit of rescuing my country from the bondage and the despotism which the Stuarts inherited from each other, and which flowed from father to son, generation after generation. I claim for him the merit of having subdued arbitrary power, of having conquered faction, of having transmitted to me, and to you, the blessings of a free Constitution. I claim for him, the merit of a bill of rights, and the pure administration of justice. I claim for him, the advantage of having prevented civil war, and of having settled the Constitution by stopping the effusion of blood. I claim to have him considered as a head, to whom difficulty was but incitement, to whom impediment was but renewed exertion, to whom defeat was victory. I claim all this for the man, who poor in purse, but rich in mind; unaided, unsupported, excepting by exertion and perseverance, overcame the obstacles which a conviction of powerful interests flung in his way. Who by his wisdom, his firmness and his policy, united the most discordant and disagreeing materials, and reconciled the jarring pretensions of the jealous and the ambitious. Great King William was not a consummate general. Success did not crown his labours, nor the prospect of booty excite his ardour. But the want of both were unable to damp the vision of his mind. *Adversa verum immersabilis unda.* That reward which in conquering a kingdom, gave it a constitution similar in kind, and equal in advantage to that enjoyed by the freest nation in the universe. He was a second Scipio; superior to Tamerlane, and equal to Regulus, he wielded with discretion the unrestrained resources of a mixed monarchy.

Unfortunately, however, there were in this Kingdom, persons who, from a concordance in religion with the deposed monarch, were ready to resist the Government of William. Gentlemen, I cannot but admire the fidelity and devotion of these persons, and while I lament that the object of their affections was unworthy, I cannot but remember the strength of nature, the despotism of prejudice, and the endearing fascination of a similarity of sentiment. To these persons the victory of William was a "sad servitude," a bitter triumph. Their religion extinguished, their altars desecrated, their lands confiscated, their alliance broken with that monarch whose fame, whose renown, whose strength, and whose glory had made all Europe prostrate, and whose popularity promised a speedy acquisition of these kingdoms, had it not been for the consummate wisdom and wise policy of the enlightened William.—I mean Louis IV.—Long did this wound fester, and long did it fasten itself in these devoted,

High-minded, chivalric champions of a religion which they adored, and a principle which they cherished. But even this, this triumph was not deemed sufficient by an intolerant party; still it did ring into the ears of the subdued, the memory of their defeat and humiliation. Let me ask was this just? I am sure it was not generous, nor high-minded. And so the beloved monarch who now reigns in the hearts, and rules by the affection of his people, thought. In that visit, which in his solicitude for your welfare, he was induced to pay to you, the memory of which, shall never fade from my recollection, as I am sure it will never be obliterated from yours; and any attempt to convey an idea of the blessings of which, would be vain and inadequate---in that visit, his Majesty witnessed with delight, the ardour, the affection and allegiance of his Irish subjects, his heart was touched, his generous nature was aroused, and he determined on the extinction of those feuds and animosities which had hitherto proved so baneful to the Country.

In this spirit his Majesty's parting admonition was framed. For a time it had the desired effect; but even before his Majesty left this hospitable shore, it was evident that the elements of discord were at work. It is well known that before his Majesty condescended to dine at the Mansion House, he had stipulated that the toast of the "Glorious Memory" should not be given. His Majesty, with that fore-thought and quick apprehension which he possesses, saw the evils of intolerance and animosity, and entered upon the god-like task of doing what had been left undone by his predecessors. In furtherance of this object, he participated in the conviviality of his subjects, and restrained by his august presence, the intemperate exhibition of an enthusiastic, (perhaps,) but certainly a wicked and mistaken feeling. But this was not all, he sent among us a countryman of whom we are all proud, and who has added new lustre to the name of Irishman; whose name and whose fame have spread, wherever commerce or civilization has penetrated; the brother of a warrior, a statesman himself, wise in council, deliberate in judgment, intrepid, unyielding and resolute; prompt to command, and ready to execute; the friend of civil and religious liberty, a soldier and a statesman. This is not adulation, or the inordinate incense which power commands. It is true, I am Attorney-General, and that Lord Wellesley is Chief-Governor, but I have too correct a notion of that illustrious person's good taste to suppose he would not discountenance the familiarity of a sycophantic flattery. However, such was the man chosen to effectuate the intentions of royalty, and to put into practice, the beautiful theory, eked and etched out by the Royal hand.

The first act of the Marquis Wellesley was to discountenance the giving of a toast which was grossly misused and much misunderstood, and which was grossly offensive to the majority of the people. His second, to prevent the annual exhibition of bad taste and "gaudy glare" by which the admiration of the vulgar were captivated and enthralled. I speak of the dressing of the Statue merely as a matter of taste, and I assert that every educated

and classic mind must revolt at the idea of witnessing a hero and a conqueror crowned with the chequered compliments of a dark red and deep yellow. I assert that no man has a right to dress the statue, or in any way to interfere with what is the public property. I remember some years ago when some ruffians bedaubed that statue with lamp-black, which by every one was considered an illegal disfiguration. I would ask where is the mighty difference between black and yellow? Is not the one as illegal and as tasteless as the other? The prohibition of this most mischievous ceremony was called for by the Protestant inhabitants of the neighbourhood; no Roman Catholic signatures were affixed to the requisition, although they had equally, nay doubly, a right to complain. On this requisition did the authorities act, sanctioned by the approving acquiescence of the Marquis Wellesley, and the consequence was, there was no dressing. Then was the tocsin of alarm sounded against the Marquis's government; and then was planned that systematic opposition, that combined confederation, which has since endeavoured, covertly and openly, to subvert, impede, and overturn the government of the Marquis Wellesley.

For several nights was the statue guarded to prevent a breach of the peace, and twice was the dressing attempted in defiance of law; in defiance of the wishes of the King: in defiance of the mandate of the Lord Lieutenant. One of the Traverser's at present arraigned, it will be proved to you, was active at that dressing. The plotting went on in regular progression, from the 4th of November till the 7th of December, and on this, the conspirators were aware that an opportunity would soon offer, to effect in public, what they had planned and designed in private. It was now advertised that his Excellency would visit the Theatre in state, on the 14th December, and thus would be afforded an excellent opportunity of pouring forth the muddy stream of their abominable animosity. Tickets were purchased from the Box-keeper, previously to the night of the entertainment, a part of the gang were to station themselves in the pit, some in the lettings; but the greater portion were to be divided between the upper and middle galleries. These latter were to march from Daly's in Werburgh-street, that is, Lodge 1612. They were to go in on tickets previously purchased by three of the Traverser's. A man of the name of Heron, holding a respectable situation under Government in the Custom House and the Post Office, was to have furnished 2*l.* for these purposes. Moreover, it will be stated that these people went armed with bludgeons; others had rattles and whistles; a third party were provided with inflammatory placards and addresses, which were flung copiously; some of these handbills fell on his Excellency's head. Others of the conspirators hallooed, vociferated, and hissed, on the exhibition of the signs, and on the shouting of the watchword by their confederates in the pit and lettings. Thus a singular sub-infundation and fealty will be proved, and this is the link by which the conspirators were bound and knit together, to over awe the law and browbeat the authorities. All this will be proved to you by testimony unimpeachable and incorrupt. Moreover, it will appear that a piece of wood, a watchman's rattle was

flung, which struck his Excellency's box, and rebounded on the stage—that a glass bottle was hurled from the galleries by one of the Traverser's, which struck the drop curtain and rolled on the stage. Beside this, the rioter's demeanour and expressions of the Traverser's will be developed; and from the strength of this connected evidence, coupled with what afterwards occurred in a public tavern, you cannot have a rational doubt of the guilt of the prisoners.

The learned Attorney-General here adverted to the mode of proceeding by Ex-officio, and entered into a defence of its legality, and the necessity that existed, under the present circumstances, of resorting to it; he quoted several Law Authorities in support of his opinion, and of its being strictly legal and constitutional. I have, he continued, Authorities, in abundance, if necessary, but I had considered it a waste of the time of the Court, to discuss the recognition of a known and established legal principle. I further submit, that the throwing out of a Bill by a Grand Jury, is no bar to further legal proceedings. It is, undoubtedly, a rule of law, that no man can be twice tried for the same offence; but a Grand Jury do not try, they only determine to put a man on his trial.—This is a marked and evident distinction between the free opinions of a Grand and Petit Jury, and if the former throw out the Bills, I should be glad to know, whether or not the Plaintiff and Defendant do not stand in the same relation, as they had done before the institution of the proceedings. The not finding of the Bills, is frequently assigned as an additional cause for the institution of fresh proceedings. This was lately decided in *Shiel v. Patterson*, within the recollection of all your Lordships. In the *Portsmouth* case too, where the Bills had been twice *ignored*, an information was granted in the King's Bench. But there is also another case in 3 Bun, where Lord Mansfield says to De Gregory, Attorney-General, or Sir Fletcher Norton, (I forget which). "That if the lowest subject was not righted by a Grand Jury, the King's Bench will interfere. But there is another case, a Theatrical one, which bears so close a resemblance to the present, that I cannot forbear quoting it, even at the risque of being tedious. My Lords, and Gentlemen—You have all heard, no doubt, of the celebrated Doctor Garth. Be it known to you then that this Gentleman wrote a prologue; certainly, it was more grateful than sagacious, for it praised King William and libelled Queen Anne. At the representation, the actors refused to repeat the prologue, by reason of the libel. Mr. Dudley Moore, however, a zealous Protestant, jumped on the stage and repeated the prologue amidst applause of the auditory. Moore was indicted, & a true Bill found—but the jurors that had been dismissed returned in half an hour, and stated that "*Billa vera*" was a mistake, and that *ignoramus* should have been the return.---(laughter.) And to this fact the twenty-three jurors swore. The Attorney-General then moved to quash the indictment and succeeded; but he also filed an ex-officio information for the same offence. Sir Constantine Plipps, however, one of the Lord Justices, and Chancellor of Ireland, interfered improperly with the jury and lectured the Lord Mayor. For this offence he was summoned before the privy council, who addressed the Crown to dismiss him, and retain the Attorney-General who had properly filed the ex-officio.

The Attorney-General, in conclusion, entreated the jury to have a patient and attentive hearing to the evidence that would be produced; and he had no doubt whatever of being able to fully establish the charge brought against the Traversers's.

EXAMINATION OF WITNESSES ON THE PART OF THE CROWN.

Richard Lowther, Box Keeper, Theatre-Royal, first witness called in, sworn, and examined by the Solicitor-General.

Solicitor General. Did the Lord Lieutenant visit the Theatre on Saturday evening, the 14th December? He did. Was his Excellency's intention publicly announced for some time before? Yes; I believe it was advertised some time before. Did Forbes and Graham two of the traversers in this case, purchase any tickets from you? Yes, they did. Pray how many. I believe six each. You are sure that Graham bought tickets from you. I am. Do you remember were these parties together when they purchased. This I cannot swear. You think, however, they bought nearly at the same time. Yes, I do. What sort of tickets did these persons purchase. Pit tickets. How many of these pit tickets did they buy. I believe six each. You know Mr. Forbes's person. I do (with hesitation). Is he here. No (rather confusedly). You don't think he is here. I don't think he is. Pray, Sir, look to the right--is that Mr. Forbes. Yes, Sir, I see him now as well as Graham. Cross-examined by Mr. Robert Johnstone. Is it not usual to purchase tickets on a night on which a full house is expected, to avoid the crush, and to get in quietly before the entertainment takes place. It is very usual. And six tickets is no unusual number to have purchased. No; I have often sold more. Pray, Sir, did you not give Mr. Graham orders for his sisters on the night in question. I gave him a box docket for his sisters.

Mr. George Atkinson sworn. Examined by the Attorney General.

Do you hold any public situation, Mr. Atkinson. No, Sir. Does your brother, pray. He does, Sir. May I ask the nature of it, Sir. Clerk of Deliveries in the Custom-house. Do you recollect the evening of the day of the 14th December. Yes, perfectly. It was the evening of the disturbance at the Theatre. Do you know any thing, Sir, of the planning of that disturbance. I do, Sir. It was planned in the lodge to which I belong, No-1612. Do you know any thing so precise and particular in the conduct of Graham, as to induce you to suppose him a member of an Orange Lodge? I have frequently met him at Daly's Lodge in Werburgh-Street, No. 1612. Is Daly's a purple lodge? It is. Were any others of the traversers at this lodge. Yes, Forbes was. State what passed there on the

Friday evening. A subscription was proposed by the master, to defray the expences of such as could not afford paying for admission to the theatre. Q. Who is the master of this lodge. A. Fletcher is the master. Q. What purpose had these men in going to the theatre. A. To hiss and groan his Excellency, and the Lord Mayor. Q. Why did they do this? A. Because they disliked his Excellency. What other object had they? A. To drive the Lord Lieutenant out of the theatre. Q. Was there a former meeting? A. Yes. Q. What was mentioned on Friday with respect to a former meeting? A. It was said, that hissing him out of the theatre would make him unpopular, and get him recalled. Q. What was appointed with respect to No. 1612. A. That the members of it should go to the pit door, and get near his Excellency's box.—Q. Why? A. To hiss and hoot at him.—Q. Did these persons get into the pit? A. I can't say. Q. Did you hear any of them say they did? A. Yes; I heard Brownlow say so. Q. Who were to go to the upper-gallery? A. The poorer members of the lodge. Q. Were either of the Hanbidges at the lodge on Friday night? A. No. Was there money subscribed? A. Yes, 2l. Q. Who got the money? A. My brother, John Atkinson. Q. How to be applied? A. To purchase pit-tickets for the Upper Gallery. Q. Had you any conversation with Forbes on Friday night? A. I had. Q. What was it? It was nothing particular. It was on general subjects. Q. Did you take any steps to get these people into the Upper Gallery? A. Yes; I went and saw them into the Upper Gallery, from the sign of the Black Bull, in Ship-street. Q. Whom did you meet at the Black Bull? A. Graham, my brother, Forbes, Hanbidge, and many others. Q. How many people went from Ship-street?—About thirty persons. Did the whole of those in the gallery go from Ship-street? A. I cannot say.

Q. Did they say what they were to do at the Theatre?—A. They were to insist on the Boyne Water; and if it were not played they were to let nothing go on. Q. How could they prevent the play from going on? A. By making as much noise as they could. Q. Did you give the information? A. No, a centinel would not let me in. Q. Then you gave up your intention? A. I did. Juror---Q. Did the centinel refuse you more than once? A. No. Q. Had you any watch-word, and what word was it? A. It was "look out." Q. Had you any spirits or porter? A. Yes; in a *vial* or a quart bottle. (laughter) Q. Did Handbidge say any thing at this place on Saturday evening? A. Yes, "boys be wicked." Q. Did you see any of the persons in the Theatre? A. Yes, I saw them on the left hand side of the gallery. Q. Did you see Forbes in the house? A. Yes, in the upper tier of boxes. Q. Had he a whistle? A. Yes. Did he use it? A. Yes, Did you see any thing particular at the Theatre that night? A. Yes, there was hand-bills, &c. Q. Did you see any of these papers? A. Yes, at Ship-street house. Were they like those I hand you? A. Yes, similar? Q. Who dispersed these? A. M'Culloch, over his Excellency's box, and one of them fell into his Excellency's box. Q. Who was

the person who took those bills to be printed? A. I can't say, Mr. Cullagh had the manuscript. Q. Did you see any of those bills I hand you? A. Yes. Q. Did you see a man of the name of Kelly at the Theatre that night? A. Yes. Q. Did you see him afterwards? A. Yes, at a tavern. Q. Was there any thing particular or extraordinary? A. I saw Forbes throw one of the hand-bills on the stage, and there was whistling, shouts, &c. Q. What were the expressions? A groan for Popish Wellesley—half pated Wellesley go home out of that. Q. Was there much noise? A. Yes, and the performance was frequently interrupted. Q. Was it before or after those expressions had been used, that Forbes was in communication with the galleries? A. It was afterwards. Q. Who was at the tavern after the play where you met Kelly and Graham? A. Two gentlemen of the name of Smith, with Brownlow and my brother. Q. There was an interesting conversation? A. Yes, Forbes said, devil mend him; when he talked of the bottle having been thrown. Q. Did Forbes say any thing else? A. Yes he said he should not matter being transported if he could raise an Orange Lodge, and asked, why were not the boys more active, addressing himself to Brownlow. Q. What did Brownlow say? A. He said the pit did as well as any other quarter of the house. Q. When they spoke of going bail for Hanbidge, did they ask with what he had been charged,—they all knew it was about the bottle.

Cross examined by Mr. Blackburn for Forbes.

Q. What situation does your brother John hold? A.—Clerk in the Custom-house. Q. When did you give the information you have been giving to day to Government? A. I did not give it to Government.—Q. Then you gave it to your brother? A. I talked generally on the subject to him. Q. Have you never given evidence until to day? Never. Q. Have you made any arrangement with respect to your brother still keeping his situation? A. No, I could not arrange that with my brother. Q. Do you know how to write? Yes. A. And why did you not write to Lord Wellesley when you had been refused? A. It did not occur to me. Q. At what hour were you at the park? A. At 12 o'clock. Q. You walked back? A. Yes. Q. And had full time to give any information to your father, who has a similar situation with your brother? A. I don't know that. Q. Did you hear any instructions given, to buy fire arms, or offensive weapons? A. No, never. Q. Have you never remonstrated with your brother, on the impropriety of his conduct? A. Never. Q. On Friday evening you were at Werburgh-street? A. Yes. Q. Did the speech of the Master take place before the lodge had closed? A. No, after supper. Q. Had Forbes been at supper? A. Yes. Q. You had been all drinking? A. Yes. Q. How did it happen that Forbes who was not a member of the lodge, was present? A. He was a visitor. Q. What was the amount of the collection made at Werburgh-street after supper? A. About one pound. Q. Did Fletcher menti-

on the Lord Lieutenant or the Lord Mayor only? A. He made use of the Lord Lieutenant's name. Q. Was Forbes present then? A. Yes. Q. Did he hear this conversation? A. I can't say. Q. When did you first see the whistle? A. At Werburgh-street. Q. Had you a whistle? A. Yes. Q. Did you buy it after you had been at the lodge? A. I did not buy it at all, they were handed about at Werburgh-street. Q. At what hour did you go to Flanagan's? A. When the play was done. Q. Was not Forbes tipsy when he came to Essex street? A. Yes, he was, and appeared warm, he drank also during supper. Q. What toasts did Forbes give at supper?—A. "The King, the Glorious Memory, Protestant Ascendancy, and many other Toasts of that kind. Q. At what hour did you separate? A. At half-past one o'clock. Q. Were there strangers there? A. There were. Q. Did you offer to come forward as a witness in Forbes's favour? A. I don't recollect. Q. Did you tell any body what you could say in favour of Forbes? A. No—Q. Nor that you could give evidence in his favor if your brother was safe? A. No. Q. Did you hear that it was intended to throw a bottle or a missile at the Theatre? A. No. Q. What did you understand by the expression, "Boys be wicked?" A. I heard that they were going too far a-head. (Laughter) Q. Was not Forbes rather drunk at the time he used these words at Werburgh-street? A. He was. Q. What situation of life are you in now, have you any employment? A. No, I was formerly an Officer in the Custom-house. Re-examined by the Attorney General. Were you ever sent for by any person to make a communication on the subject? A. I was. Q. Did you make a communication? A. I did. Q. Was any promise or threat held out to you in consequence of that communication? A. None, upon my oath.

Mr. Atkinson, examined for George Graham, by Mr. Driscoll.

Q. You saw George Graham there? A. He was not there, nor was Mathew Handwich. Q. Did you see George Graham doing any thing mischievous at all. A. I did not. Q. Or Mathew Handwich. A. No. Nor Henry Handwich. A. No.

Mr. Atkinson, examined for William Brownlow, by Mr. Scriven

Q. You have said Brownlow was at Flanagan's? A. Yes. Q. Did he not sit at a table by himself in the tap room? A. Yes. Q. Did Mr. Brownlow say or do any thing that night? A. He came to the table where Forbes and I were sitting. Q. Do you know a man of the name of Farley. A. No? Q. Not even by sight. A. No. Q. Did you not hear that that man intended to give evidence against yourself? A. No. Q. When did you give any information relative to these matters? A. I don't recollect. Q. How long after the Saturday night. A. A long time. Q. Was it after the Commission. A. It was. Q. How long after. A. On Tuesday. By Mr. North—Q. Was Mr. Graham at the lodge in Werburgh-street on Friday? A. No.

SECOND DAY.

The Court sat at nine o'clock this morning.

The Chief Justice and Judges Jebb, Barton, and Vandeleur, having taken their seats on the Bench, and the Gentlemen of the Jury having answered to their names the several traversers were called; they answered severally, after which the first witness called on the part of the Crown was John Atkinson.

Mr. Serjeant Lefroy, after stating that on account of the absence of some of the witnesses, he and his colleagues would deviate from the order of the evidence which they had intended to pursue, desired the crier to call

JOHN ATKINSON,

Who being sworn, was examined by the Solicitor General.

Q Do you remember the night the Lord Lieutenant went to the Theatre Royal? A I do, Sir. Q Was his Excellency's intention known to you before: A It was, Sir. Q Do you remember meeting with any person, at any time prior to the night of his Excellency's going to the Theatre, and do you remember speaking on the subject to any such person: A Yes I do. Q Had you more than one meeting at which his Excellency's intention was the subject of conversation at the meeting: A Yes; I heard it mentioned more than once. Q I ask you whether you were in company with any persons when his Excellency's intention was the subject of conversation, and whether it occurred more than once: A It did. Q When did the first of the meetings take place; was it one, two, or three days before his Excellency went to the Theatre: A It was a few days previous; I can't immediately mention the day. Q Do you remember going to the Shakspeare Tavern and speaking there with persons on the subject, previous to his Excellency's going to the Theatre: A I do; I was there on one night before the time. Q Do you remember what that night was; was it two or three nights previous: A I really forget whether it was two or three nights. Q What was the subject of conversation at the supper on that night: A It was about the steps we should pursue. Q Who were present at that meeting: I was for a good part of the night. Q Mention others; do you remember others: A I do, Sir; there was Mr. Stoker present. Q Was there any other: any body else: A There was Mr. Bentley. Q Any body else: A Yes, Mr. Heron was there. Q That is the person I asked you about; you and Mr. Heron was there: A Yes Sir. Q What did the conversation turn on.

(Here Mr. Blackburn objected to the question, because none of the traversers were connected by the evidence, with the Shakspeare Tavern.)

Question by the Solicitor General, You recollect that there was a meeting at the Shakspeare, at which the last witness who was examined was present; (Here the Attorney General explained the circumstance of the previous meeting) The Solicitor General in continuance said, I was just mentioning that there was a previous meeting, and that the former witness had connected this meeting at the Shakspeare with the one here.

Mr. Driscoll—He does but in an imperfect way.

The Solicitor General—I will make it perfect for you.

The Chief Justice observed, that it having been said in the presence of Forbes, that there was a meeting at which they had determined to do what would make the Lord Lieutenant unpopular, the evidence could be connected.

Mr. Driscoll admitted the general principal of the law, but contended the law did not apply.

Mr. Robert Johnson, K. C. said that it would be carrying evidence beyond its proper limits, if when one man comes to another, and tells him that there is to be a meeting, and if it should be maintained that all that takes place at that meeting is evidence against the man who told the other that there would be such a meeting. The last witness did distinctly say, that he would not swear that he had heard the Lord Lieutenant's name mentioned. But he (Mr. Johnson) would suppose that the witness had heard it mentioned—still that would not make it evidence. If one man says that a meeting took place, upon what principle is it that all the facts connected with that meeting, or all the consequences of the meeting should be evidence against that man. When that meeting is brought forward it may refer to some other meeting different from the insulated evidence of having heard that a meeting took place.

Mr. North after explaining the nature of the rule of evidence, which he declared to be founded on good sense, said that whenever a number of persons are in pursuit of one common object, the declaration of the sentiments of one of them was evidence against others; but that the rule never extended to this—that the statement made by one of them that a fact took place, can be evidence of that fact—Let A and B have conspired to effect a common purpose, an act done by B in pursuit of that purpose is evidence against A; but if B says against A, that such a person is knocked down in the street, that statement cannot be evidence against A. Mr North continued to argue with great zeal, and in support of his opinion quoted the case of Hardy, Tooke, and others. Mr. Hamilton after alluding to the authority quoted by Mr. North, argued that such evidence was inadmissible.

The Court over-ruled the objection declaring that the evidence ought to be admitted, because the persons who

were asssembled at the one meeting, were asssembled at the other, and because there was a community of object at the two assemblies which would make what commenced at the one, evidence of the nature of the object of the second. There was evidence that the thing which commenced, and which passed at the Shakspeare, was commenced and acted on at Werburgh street. In short there was evidence to go to the Jury, that the meeting at the Shakspeare, and the meeting in Werburgh-street, were several parts of the one conspiracy, though all the conspirators are not proved to have been at both the meetings.

The examination was then resumed by the Solicitor-General.

Q The conversation turned at the Shakspeare on the Lord Lientenant's intended visit to the theatre; was there any thing done in consequence of his going to the theatre : **A** Yes sir, it was mentioned that some people should be sent there on the night of his going to the theatre. **Q** For what particular purpose was it agreed on, and what was concerted at that meeting for the sending of the persons to the theatre : **A** I cannot be very particular, because it was at an advanced hour of the night; the subject as far as I can remember—

Mr. Robert Johnson, K. C.—What the witness is now going to say will not be evidence, he is not to give conclusions, but statements of facts.

Here the Chief Justice explained to the witness that he was not bound to state the exact words, though on the other hand he was not allowed to give his own conceptions, but only the substance of what had passed.

Q Now recollect what occurred, respecting the Lord Lieutenant: **A** It was mentioned by one or two others to raise a fund to buy tickets to be given to the people, and to send them to the theatre. **Q** For what purpose were they to be sent to the theatre :

Mr. Driscoll objected to the question.

The Chief Justice—Was it discussed or mentioned for what purpose the men were to be sent to the theatre : **A** Because his Excellency was going to the Theatre, it was to render him I suppose unpopular. The Lord Chief Justice.—You are not Sir, to say what you suppose. It was for the purpose of rendering the Lord Lieutenant unpopular, or words to that effect. **Q** You have said, Sir, that the object was to render the Lord Lieutenant unpopular, and that words were mentioned to that effect. I ask you Sir, was any mention made of what would result from that unpopularity : **A** Yes, that it might cause his removal. **Q** Will you just listen to me—As it was passed at the meeting that tickets would be bought, and that men would be sent to the Theatre, he object was to render the Lord Lieutenant unpopular in this country, and to remove him, the consequences were im-

mediate and remote. A Yes sir. Q As to the consequences which were to be immediate at the Theatre, what was the immediate object there with respect to the Lord Lieutenant, by sending the men : A It was mentioned that it might cause him to leave the Theatre. Q Am I right in understanding you, as having said that the second object was to make him leave the country : A The second object was to make him leave the country. Q Am I right in stating as your evidence, that tickets were bought, and that men were to be sent to the Theatre, for the immediate purpose of making him quit the Theatre, and that the remote object was to make him quit the country : A It was. Q Did you receive any subscriptions for carrying into effect the plan : A I did. Q For what purpose was it given : A It was not mentioned at the time I received it. Q You said that when you were in the Shakspeare it was mentioned that money was to be raised : A It was mentioned the night before that money would be sent to me ; and the next day it was sent to me under a blank cover. Q Do you know the hand writing which was on the blank cover : A I am not sure of it. Q Do you know who the person was who sent you that money : A I know the person who said he would send it to me ; it was Mr. Heron who said he would send it to me. Q Who is he : A He holds a public employment ; I hear he holds a situation in a public office—in the post office. Q Have you seen him acting in the post office : A I never seen him. Q Did you ever see him in the custom house : A He is reported to be so.

Here the Attorney General said, that is quite sufficient.

Q How were the persons who were to be treated with tickets, to be employed ; what part of the house were they to be sent to : A To the upper gallery. Q What was agreed upon : A It was agreed upon that they were to be sent to the upper gallery. Q Why to the upper gallery and not to any other part of the House : A It was not considered necessary to send them to the other parts of the House.

Here Mr Robert Johnson made a remark on the kind of witness which was on the table, when the Attorney-General immediately said, that Counsel had no right to throw out imputations against the witness. Mr. Johnson said that he had a right to do so ; but the Chief Justice declared that the observations made on the witness while on his direct testimony, was not right. Mr. Johnson explained and argued that he was right ; but the Chief Justice said, what I object to is this ; you assail the witness in the hearing of the Jury, and you allude to a particular circumstance, which observation ought not to be made ; when you shall address the Jury just now, you can make any observation which you please connected with the case, but you shall not be at liberty, during the progress of the trial, to make such observations ; we will not allow it.

Mr. Johnson said, he was sorry for the observation, but conceived that he had the right to make it.

The Solicitor-General in continuation - Q I am alluding to the meeting at the Shakspeare; now, Sir, I ask you was there any reason assigned, or talked of, why all the men should be sent to the gallery, and none to the Boxes or Pit: A There was a reason assigned; it was mentioned that there would be plenty to go to the rest of the House, and to treat themselves. Q Do you remember seeing any of the persons again on any subsequent occasion: A I do, Sir. Q On what occasion: A I saw them on the evening of the morning I left the Shakspeare Tavern, Q Where did you see them: A In Werburgh street. Q At whose house: A At Daly's in Werburgh street. Q Whom did you see at that time: A I saw Mr. Stoker and Mr. Heron. Q Did you see any of the traversers who are here, I mean that are in Court: (After a pause, looking about him) A I saw Handbidge. Q Do you remember which Handbidge: A I believe his name is Henry. Q Do you know his person. A I do. Q Do you see him here in Court. A I do. Q Tell me who were there on that occasion. A Do you mean in the evening. Solicitor-General. Yes. A Mr. Fletcher was there. Q Do you remember any other; No answer. Q Were there several people there: A I don't recollect any more. Q Was there any conversation on the subject of the Theatre. A There was a great deal relative to the subject. It was about the mode of going up to the Upper Gallery, and how they should conduct themselves there. Q Was there any conversation how they would go. A There was; Handbidge was asked to get some people to go to the Theatre. Q Did you arrange any thing about the manner, or how they were to conduct themselves at the Play; A It was mentioned that after God Save the King was played they should call for 'The Boyne Water.' Q What were they to do after that; upon calling for 'The Boyne Water,' A They were to endeavour to get it. Q If it was not got, what were they to do then; A They were to endeavour to get it. They were to interfere and to endeavour to prevent the performance from going on. Q Was any thing mentioned relative to the Lord Lieutenant on that night. The witness remained silent. Q Do you remember any thing having been said relative to the Lord Lieutenant. Another pause. If not, Sir, you need not mention what you thought. A It was also mentioned that the Lord Lieutenant might, probably, be compelled to withdraw from the Theatre. Q Do you remember after that, calling any where for the purpose of seeing Handbidge. A I did call to see him. Q Where did you call. A I called at Dominick-street, at Mr. Colburn's the carpenters. Q Was it previous to going to the Theatre. A It was previous;

it was on the morning of the same day. Q Was that previous or subsequent to the meeting at Werburgh-street. A It was previous. Q Did you see Handbidge there. A No; I saw his brother. Q Had you any conversation with his brother. A I merely said that I wanted to see his brother. Q Do you see him among the traversers. A I do not see him there.

It was here mentioned in Court that Handbidge had more than one brother.

Q All you did then is this; that you asked for his brother Henry: A Yes, and to inform him that I wanted to see him. Q Did you see him afterwards. A I did, in Werburgh-street. Q Did you ask him any questions relative to the plan. A I do not recollect, he got his instructions from Mr. Heron and Mr. Stoker relative to the way in which he and they were to conduct themselves at the Theatre. Q Whom do you mean by "they." A The individuals. Q What individuals. A I mean the men Handbidge was to bring with him to the Theatre.

Witness went on to state, in answer to the questions proposed to him, that he did not know the exact number of persons Handbidge was to bring, he mentioned if there could be sixty or seventy persons brought. Tickets were purchased, saw some of the parties the evening after, that was on Friday evening; it was at half past twelve o'clock on Thursday morning that the meeting was held at the Shakespeare, they stayed there until three. On Friday evening witness was at Daly's in Werburgh-street, it was business brought witness there, he went to meet his Lodge, saw Mr. Heron at the Lodge, Mr. Stoker, Mr. M'Cullagh, Mr. Fletcher, Mr. Forbes, and several others were there; Mr. Forbes did not belong to that Lodge, he came there as a visitor; something passed there on the business of the Theatre, money was subscribed to purchase tickets; believes all the individuals in the room subscribed; a pound was subscribed there, a pound was handed to witness that evening before, out of the Lodge, it was not subscribed in the Lodge, or from the Lodge; can't swear which he got it from; Mr. Stoker or Mr. Heron, but he had it from either; had four pounds in all; witness handed the most part of it over for the purpose of purchasing tickets. Tickets were purchased, Mr. M'Cullagh, and Mr. Forbes went to the Theatre for the purpose of purchasing them; witness did not go in; they gave him (witness) back some change; there was a meeting mentioned to be held in Ship-street, at the house of Mrs. Daly; this meeting was held at five o'clock on Saturday; they met there previous to going to the theatre; witness has visited Lodges in Mrs. Daly's in Ship street, they are the lowest description of Lodges; there was not much done there that night; there was some refreshment got for the men, they all took some drink; witness has heard of Black Lodges; don't belong

to one of them; the black are considered the higher lodges; not higher as to persons or respectability, but higher in step, in promotion; the tickets were distributed that night; saw several persons that night amongst whom tickets had been distributed; saw them as they came into the room; there was not a great many of them; some of them had sticks with big heads on them; witness saw handbills in the Theatre; did not see them before: don't remember any sign or watchword having been agreed on, by which the party might recognize each other; witness went to the Theatre that night; went first to the gallery, afterwards went down to the boxes; witness would not know Handbidge's men. When they came for their tickets, they just came and went; Forbes, M'Cullagh, witness's brother, and himself, went straight to the upper gallery, they first went to the upper gallery; they afterwards went to the upper boxes; Forbes had a small whistle; they got the whistles at Daly's in Ship-street; witness supplied the whistles; there was a rattle there; can't say who had it; the rattle was in Ship-street; there was a bottle there.

Q Were there more whistles than one. A Yes. Q Where did they get them. A They got them at Daly's in Ship street. Q Was it Daly the witness said: Do you mean to say that they were supplied there; A pause. Did you supply them. A I did altogether. Q You told us that you had got the stock purse. A I had Sir. Q Did you see a rattle there. A There was a rattle there; but I did not see who had it.

Question by the Chief-Justice—Where did you see the rattle. A In Ship-street.

Examination resumed by the Solicitor-General—Q Did you see a bottle there. A I did. Q What kind of a bottle. A A black bottle. Q Did you hear any conversation with any of the party about a bottle having been thrown. A I heard there was; but I was in the lobby at the time it was thrown. Q Was it—Here Mr. Driscoll objected to the question, because the witness said that he had not been in the Theatre when the bottle was thrown.

The Chief-Justice—This is not evidence, Mr. Driscoll, the Solicitor-General is following it up.

The Chief-Justice—I agree with Mr. Driscoll that you can't ask that question as to affect any of the traversers.

Mr. Solicitor-General—Is it not to any part of a concerted plan.

Chief-Justice—What is said is not evidence, unless said by one of themselves. Did you hear from any of the prisoners, I mean at any time, or at any place, did you hear of the throwing of the bottle: After a pause; A It was mentioned in general conversation in Essex-street. The Chief-Justice said that could not be given as evidence unless connected with some of the traversers. Q Who were present in Essex-

street, in whose house was it. A Witness, Which house do you mean; do you mean Mrs. Flanagan's. The Solicitor-General answered in the affirmative. The witness then said there were some of the prisoners there that night; William Graham was there, Forbes was there, and Brownlow was there. Q Were any others of the traversers there? A There were others there. Q Was your brother there? A He was. Q Do you mean to say that you heard a conversation about the bottle being thrown? A Yes, Sir, it was mentioned. Q Come, as well as you can recollect, tell what you heard; don't want to know what the exact words were: (After a pause) A I can't recollect any conversation, only it was mentioned as having been done. Q Was any remark made on it; I don't mean that you should recollect the words but the substance only; was there any remark made, or any opinion expressed by any person on the subject. (After a long pause) I can't bring any thing to my mind.

Mr. Driscoll said, that the counsel for the traversers had agreed among themselves not to cross-examine the witnesses unless on points connected with their respective clients, lest they should unnecessarily occupy the time of the court.

The Attorney-General said, that the Law Officers of the Crown had no objection to any latitude which the counsel for the traversers might be inclined to take in the examination of witnesses, or in speaking to evidence.

John Atkinson Cross-Examined by Counsellor Roleston.

Q You hold an office under the Government? A I do. Pray, Sir, how much may it proluce to you per annum? A About 90l. Q Your father has also a place under Government. A He has. Q What is he. A An Attorney. Q Does he practice. A He does when he can get it (a laugh) Q Upon your oath don't you think your place would be more secure if your evidence could convict the traversers. A It is a thing I can't give you any answer on; I never thought of it before. Q Had you any place before this you now hold. A I had. Q Were you turned out of it. A I lost it when it was abolished. (a laugh) Q But you got no compensation. A No. Q You came here to swear a conspiracy against traversers. A I came here to give testimony; I do not know whether it is a conspiracy or not. Q But having a place under the Government you would not enter into any conspiracy against the Government—a man so pure as you are, would not do so. (a laugh) A Not knowingly or willingly. Q I know you would not; you, a pure man, would not enter into a conspiracy; (a laugh) but, would you, having a place under the Government, and a man of such purity, would you associate with conspirators against that Government. A Not knowingly; I would not. Q I know you

were a good subject. (a laugh) Were you often with Forbes. I was often in his company. Q Did you dine with any of them, I mean any of the persons included in the charge of conspiracy. Not one of them. Q Were you drinking with them. I was. (a laugh) Q When. A. On last Sunday evening. Q Are you not on most intimate habits of friendship with Forbes. A I have been. Q Surely you that hold places under the Government would not associate with Forbes if you did not think him a loyal man. A I would not. Q So I think; from the intimate knowledge you have of him would not you convict him of loyalty. A I would certainly, (a laugh.) Q Do you think that there is a man on earth more attached to his Sovereign and Government than Forbes. A I think there is no man. Q You would find him guilty of that. (a laugh) Yes, if it was a crime. (a laugh)

Mr Rolleston—Sometimes it appears it is a crime to be loyal—(loud laughing and clapping of hands in several parts of the Court) Q Will you inform me what situation you hold in the Orange Lodge. A I am a Deputy Master of a Lodge. (a laugh) Q You are only approaching to the purple; (a laugh) Is your brother of any rank. A He is Secretary. Q You and your brother must have considerable influence in the Lodge. A I can't say we have. (a laugh) Q I am not speaking of what you have *now*; but had not you considerable influence. A I can't say I had. Q Now did they elect you, not having any influence; no answer. Q I suppose they did not know you at that time as well as they do now; (a laugh) no answer. Q You say you have had no influence. On your oath I ask you if you had. A I can't say I had. Q. You as an officer, did you not think it your duty to prevent any riot that might take place? A Certainly. Q. Did you think you were doing your duty, when you met at the Shakspeare Tavern to consult on going to the theatre. A I thought of only going to spend a pleasant evening there. Q Do you remember what you said there yourself? A I do not remember any thing particular. Q Do you not remember what was communicated to you respecting going to the theatre? A No. Q You were there *Non mi Recordo*, you were treasurer to the Lodge? A Yes. Q Look at that boy, sir, on your oath who went for Handbidge to induce him to go to the theatre? A I did. Q Can you detail what brought him there, and what instructions did he receive, or did you give when he came in, or had you any conversation about the Lord Lieutenant that evening? A I do not recollect that we had, I am sure not. Q Did you or Handbidge tell the others what to do? A. No they knew well as ourselves. Q Did you caution them against any proceedings in the theatre? A I was confident they did all conceive going to the theatre perfectly innocent. Q You had supper, had you any conversation after supper? A Can't recollect that

any thing was said about the Lord Lieutenant, after supper. Q Did you not consent to go with them that night? A I did not. Q Did you not concur with them to enter into a subscription to go to the theatre? A Yes. Q Were you not treasurer to the Orange Lodge? A Yes. Q How much did you give? A All I had was 4*l*. I gave three of it to buy tickets. Q So you kept 1*l*. of it yourself; very moderate indeed, (a laugh) I wish all treasurers was even as honest as you are. Q Who were the persons sent to buy the tickets?

Question by the Attorney General.

I wish to know sir, what you did with the monies collected on the occasion?

Reply of Counsellor Rolleston.

Mr. Attorney General wishes to know if you have yet the monies so collected, that he may have the disposal of it. (a laugh) A Said he paid Daly for spirits with remainder. Q What did you do with the tickets when bought? A I gave them, according to the instructions I had received, to Handbidge. Q How many tickets were bought? A I believe six or seven. Q You being an officer under the Lord Lieutenant, did you say, "for God's sake do not disturb the Lord Lieutenant?" A I did not. Q You say you had no particular previous conversation, prior to your going to the play? A Nothing particular more than now. Q Do you forget what you were doing in the theatre? A. I do. Q On your oath, cannot you recollect, can you whistle with your fingers? A No. Q Did you join in calling for particular tunes, such as the Boyne Water? A I might. Q You are attached to the memory of King William? A Yes. Q Did you clap your hands? A No, I was rather timorous that I should be observed. Q What part of the house were you in? A I was in different parts of the house. Now as far as we have gone, who is the greater conspirator of the two? A I can't say. Q Is there not informations against all the persons? A I can't say. Q Who bought the whistles? A I only bought some of them. Q Quite innocent indeed! How much money did you pay for the whistles? A I forget.

Mr Rolleston—Another forget-gentleman. (a laugh) Q How many whistles did you buy? A Forbes and I bought six or seven whistles. Q Who were they given to? A They were given to the men in Daly's. Q Did you not desire them to use the whistles? A I begged and requested them not to bring any sticks with them. Q Did you not desire them to use the whistles? A I did, but I desired them not to bring ticks. Q Had you a whistle? A I had not. Look up

at the Jury, and tell them what you were doing in the Theatre? A I joined them in some part of the proceedings.

Had you a rattle? A I had not. I joined in some part of the noise when they cried out for 'Boyne Water.' Q How did you join them? A I clapped my hands. Q You are fond of 'the Boyne Water;' but you did not join them against the Lord Lieutenant? A No.

Mr Rolleston—The play was finished, and the farce was over, but we had another since, and a great part of it is farce. Q Pray sir, where did you go after the play was over? A To a Tavern in Essex-street. Q That is to finish the evening; Forbes was there also, he was very angry at being arrested? A He was. Q You all supped, and of course drank some; were you quite sober? A Yes quite sober. Q Now notwithstanding Forbes being angry at being arrested, he gave some toasts? A He did. Q Did he not give the King's health with three times three? A He did. Q Did he not give the Duke of York and the Army, that I believe was not very disloyal? A He did. Q Did he not give the Glorious Memory? A He did. Q Did he not give the Protestant Ascendancy in Church and State? A He did. Q Recollect yourself, on your oath did he not say, that no true Orangeman would be so wicked as to throw that bottle at the Lord Lieutenant? A. *He did.*

Counsellor Scriven further examined this Witness.

Q. Pray sir, give me leave to ask you on the oath you have taken, is not the oath of an Orangeman, to the utmost of his power, to support and defend the present King George the Fourth, his heirs and successors to the throne, so long as he or they support the Protestant Ascendancy, the Constitution and Laws of these Kingdoms? A. It is.

Q. And that you will hold sacred the name of our Glorious deliverer William the Third, Prince of Orange, and that you are not, nor was not a papist, or Roman Catholic, that you were not, are not, nor will ever belong to any treasonable society, or body of men, who are enemies to his Majesty or the Constitution of these Realms. A. This is the oath of an Orangeman. Q. So help me God. A. Yes, Q. Are not these the known principles of that society? A. Yes. Q. You yourself took that oath? A. Yes.

Q. You said you were as attentive and active as any other of the members, to what went forward prior to your going to the theatre? A. Yes. Q. Did you not at the time find any scruples in breast, at what you were going about? A. None in the least. Q. Did you or would you not, if you had it in contemplation to insult or assault the Lord Lieutenant? A. Certainly; but at this time, I am certain

not one of us could perceive any evil tendency in what we were going about.

Cross examined by Mr. Speer on behalf of Henry Hanbidge.

Q Did you see any person in the gallery you knew: A I saw Henry Hanbidge.

Here Mr. Scriven handing a newspaper to the witness, asked whether he had ever seen the passage which was marked in it? The witness said he had read it. The paper after having been marked by one of the officers of the court, was handed to the jury.

Cross examination resumed by Mr. Speer.

Q Where in the gallery was Henry Hanbidge: A I think he was sitting in the centre; but I am not sure whether he was sitting in the centre or on one side: Q Did you see any thing with him; A I saw nothing but a stick. Q Will you venture to swear he had even a stick: A I do. Q Did he do any thing offensive to the Lord Lieutenant: A I saw him do nothing offensive to the Lord Lieutenant. Q Nothing A Nothing.

Cross examined by Mr. North.

Q Was it a part of your agreement to assault, or offer personal violence to the Lord Lieutenant: A None at all.

Q Did you not advise the persons not to bring sticks: A I did. Q Did you not give the advice lest violence should take place: A I was not afraid of violence being offered to the Lord Lieutenant, but lest there should be a row in the upper gallery. Q Would you swear that it was the intention of any of the persons to offer personal violence to the Lord Lieutenant: A I would almost swear the contrary.

Question by a juror—You said a bottle was taken to the theatre: A No, I said that the bottle was taken out of the room from the house. Q You can't swear it was taken to Theatre: A I cannot.

The Solicitor General here requested to know what the witness had said; and on referring to the evidence, it appeared that he said that the bottle had been taken from the house, but not that it had been taken to the theatre.

Mr. John Lambert was sworn, Examined by Mr. Serjeant Lefroy.

Witness said that he was in the pit of the Play-house on the night that the Lord Lieutenant was insulted; he was there before the Lord Lieutenant entered the theatre; he

observed placards or little handbills about the house, but he did not get one them; he saw a person handing the handbills about; would know the person again.

Here the witness identified William Graham, after having first desired Graham to take off a pair of temple spectacles; he saw William Graham also busily engaged in hissing and groaning; William Graham began first to hiss and groan on the entrance of the Lord Lieutenant into the theatre; William Graham also repeated the same things during the night; he was doing so during the first two or three acts of the play; witness saw Graham communicating with a number of persons who were employed in the same way, in hissing and groaning; witness also saw them communicating with Graham; witness did not see any other person in the pit except Graham distributing the handbills; witness heard a great noise in the Theatre on that night by hissing and clapping; he also heard the words, "*look out boys*," often shouted from the gallery: the Lord Lieutenant was hissed and groaned; the witness heard them crying out "a groan for Wellesley" witness also heard whistling in the gallery: witness said that the handbills which were distributed were printed handbills.

In answer to Mr. North, who cross examined the witness, he said that he lived in Chamber-street, and that he had not the honour to be an Orangeman; that he was a Catholic by religion; witness was in the house about half an hour before the Lord Lieutenant entered, he sat on the fourth or fifth, or sixth seat from the stage; William Graham was standing before witness, but witness cannot say whether he was one, two, or three seats distant; he saw hand-bills dropped from the lattices, the people in the pit picked them up, but witness did not get one, as every person was so eager to get them; witness saw Graham bring some in his hand into the pit and distribute them, on his oath he saw handbills in the pit before the handbills dropped from the lattices; he could not describe any of the handbills because he did not get one. Witness swore in answer to a question from Mr. North, that he saw Graham distribute one, two, or three handbills before the handbills dropped from the lattices; never saw Graham before that night; nobody ever told witness that Graham is an Orangeman, but he believes him to be one; witness clapped when the Lord Lieutenant entered the house; William Graham did not join in the cheers when the Lord Lieutenant entered the house; the Lord Mayor came in before the Lord Lieutenant. Witness, in answer to a question from Mr. North, who asked whether he would swear that when Graham hissed, he was not hissing the Lord Mayor, but the Lord Lieutenant; said that Graham hissed the Lord Mayor before the Lord Lieutenant entered the house, witness saw Graham until the third act; witness did not

disclose the information until he was sent for by Major Sirr; he thinks that the information had been conveyed to Major Sirr, by witness's tailor, a Mr. Lane.

Here Mr. North said, your taylor then stitched up the story for you—(a laugh.)

Witness did not tell Lane that it was Graham, because he did not know the name then; he gave a description of the man, who was taken up, in consequence of this description; Graham wore no spectacles in the Theatre. Q. Had you a stick in your hand? A. No Sir, Q. Then you left it at home? No, sir; I never carry one.

Question, by a Juror—Might not the hand bills have fallen in another part of the house? A. I saw them in the hands of Graham, when he came into the house.

Question by the Court—How soon did you describe Graham in the police office? A. On the Monday week following.

Mr. John Rooney, Sworn.

Witness carries on the brewing business; was in the Theatre the night of the 14th of last December, in the lower gallery; was in the front of the gallery, on the right hand side; he had an opportunity of seeing the upper gallery; witness observed in the upper gallery, a group of persons rushing into the gallery and shouting; he saw creeks and watchmens rattles, in the hands of some of those persons; he saw persons use those, but he does not know their names; he saw a knot of persons behind him in the gallery, and some of them had sticks under their coats; the sticks were short and heavy in the head; all the sticks were alike; he saw one or two sticks of the same kind in the upper gallery; after he entered the house, there were groans for the Lord Mayor—groans for the house of Wellesley from the upper gallery; there was a clap for Sheriff Thorpe, and a clap for the calf's head—(a laugh) Q. What do you mean by the calfs' head?

Counsel for the traversers objected to the question, which was over-ruled.

Witness saw hand bills thrown; there was one thrown down on the side of the Lord Lieutenant's box; when the Lord Lieutenant entered the Theatre, there was a partial groan and a general clap; Sir Stewart Bruce took up the bill that fell into the Lord Lieutenant's box; witness did not interfere in any manner, until there was a groan for the house of Wellesley; witness then stood up and cried "shame, shame;" some persons behind witness, then cried out to others, to knock witness down; he observed something flash across his eyes, and it struck the drop curtain on the stage, two or three feet above the stage; it struck the curtain about ten or twelve feet from the Lord Lieutenant's box. It made a sort of *dinge* in the curtain, and having raised up part of the curtain, it fell and rolled towards the lights; he thought it was a bottle, before the musician took it

up; witness was looking towards the Lord Lieutenant's box when it flashed before his eyes, in its passage in the space between him and the lights on the stage; he saw it was a bottle, when the musician took it up.

Cross-examined by Mr. Driscoll.

Q. Did you not say that you saw the object just glance before your eyes? A. Just glance, no, Sir. Q. What! will you say you do not say so? A. I think I did not say so, but as you say it, I suppose I did. Q. Did you say so? A. I suppose I did. Q. Will you swear it is true?

The Chief Justice—The witness did not say, *just* glanced across his eyes—the witness explained that while he was looking towards the Lord Lieutenant's box, the object caught his eye as it passed towards the lights.

Question by Mr. Driscoll—How did you continue to see the short sticks when you told us a while ago, that the sticks were under their coats? A. When the gentleman they called Mr. Johnston was coming up to the gallery, they were pulling out the sticks before he came up.

The Attorney General, looking at Mr. Driscoll—Do you hear that?

Mr. Driscoll—I am quite satisfied with the answer.

Q. What is your business? The brewing business?—Are you not convinced that when tradesmen turn out for particular wages, persons who will not join them in the combination are beat for not joining them, and are not men obliged to carry *serious* weapons for their own protection? I believe so.

When cross examined by Mr. Perrin, the witness said that it was not unusual to see a rush into all parts of the house, or to hear shouting or hissing. There was a great deal of groaning and hissing for the Lord Mayor; the Lord Lieutenant was well received, with the exception of two or three parts of the house; the noise was particularly violent at the latter part of the play; the Lord Lieutenant bowed to the Lord Mayor, and expressed his disapprobation of the hissing, and then there was a groan for the House of Wellesly; some person called him “a bald-pated old rascal;” the lights were up at the time, because the witness saw the musician put his hand over them to take up bottle; the bottle struck the scene about half-way between the the leader of the band and and the Lord Lieutenant's box, about two or three feet from the Lord Lieutenant's box.

Mr. Charles O'Flaherty sworn—Examined by Mr. J. Sealy Townsend.

Witness was in the Theatre on the 14th December last, in the lattices opposite to his Excellency the Lord Lieutenant; he heard great noises issuing from the gallery, but he could not distinguish the features of persons; he heard words and groans; he heard the words, “look out”—“look out,” or words simi-

lar; the words appeared to witness as a signal; an objection was made to the answer, as not evidence; the words were said more than once, but witness did not perceive any effect from them; there were various hisses and groans for the Lord Lieutenant, during the night; he saw a bottle thrown; he saw it when it struck the curtain; Mr. Barton held it up; it struck the curtain, about three or four feet from the stage, and about two-thirds from the centre to the side where his Excellency sat; it rolled from the curtain towards Mr. Barton, who stopped the music and held it up; it was what is usually called a quart bottle; when it was thrown the orchestra were playing "God save the King;" witness observed papers flying about; he observed them first coming from the upper gallery, and next coming from over his own head—(Here witness identified some of those papers.)—When the bottle was held up there was a general expression of indignation; some cried "shame, shame;" witness could not say what was the object for which the bottle was thrown,

Cross examined by Mr. Scriven.

In answer to a question, witness said that he believed there was a heavy weight at the bottom of the scene, and that there was a heavy stick or beam—a roller—as that was the case, the only possibility of the end of the curtain being lifted up by the bottle which struck it, depended on the force with which the bottle was thrown; he did not think it would—but it depended on circumstances; he was quite sure the bottle would indent the curtain; witness said he did not notice the Lord Lieutenant bowing to the Lord Mayor when he came in; had no recollection that the Lord Lieutenant cheered the Lord Mayor.

In answer to the Chief Justice, Mr. O'Flaherty said that he never saw the drop scene nearer than from the boxes, unless when it had been down.

Question by Mr. Justice Jebb—Was it before the play or after it, the bottle was thrown? A. Previous to the commencement of the farce, while the orchestra was playing "God save the King."

Giles O'Brien sworn, examined by Mr. Green.

Witness was in the Theatre the night of the 14th December last, in the upper gallery, on the left side; witness observed sticks and hissing in the gallery; the hissing was for the Lord Lieutenant and the Lord Mayor between the play and the farce; he heard some cry out for "the Protestant Boys" and "the Boyne Water," and he heard some call the Lord Mayor "a bloody Papist;" he believed some called the Lord Lieutenant "a bloody Papist;" the witness was desired not to say so unless he was sure: he said he was quite sure that they called the the Lord Lieutenant "a bloody Papist;" he heard some say, "look out"—"look out," and answer "we are here;" he observed one person in particular whom he would know, with a short stick; there were several with short sticks about half a

yard long; was desired to look round, but could not identify any of the traversers; witness saw one man in the act of throwing, and he saw a thing passing down by the side of the lattices; he did not see what it struck, it was between the play and farce when it was thrown.

John Eastham, examined by the Attorney-General.—Said he was on the upper gallery on the 14th December, and saw a person beating on the front of the upper gallery with a stick; heard him crying “No Popish Government;” “No Popish Lord Lieutenant.” Witness pointed out Mathew Hanbidge as that person; the party groaned the Lord Lieutenant; Mathew Hanbidge seemed the most conspicuous on the occasion; to the best of witnesses recollection there must have been 100 persons and upwards so acting in the upper gallery; witness was alarmed, and expressed a wish to retire, but had no means of getting out; he proposed to slide down into the middle gallery; some persons behind him, witness, were fighting, and some were beaten; they used the words “Look out;” it appeared to him to have been a signal.

He underwent a cross-examination by Mr. Hamilton.

Christopher Moran sworn, was examined by the Solicitor-General. He stated that he was in the upper gallery on the 14th of December, and saw a number of persons with sticks; heard them hiss and groan the Lord Lieutenant; saw the two Hanbidges there; saw Mathew Hanbidge with a stick beating on the front of the rail, and heard him propose to groan the Lord Lieutenant; heard Mathew Hanbidge cry. “a groan for Popish Wellesley,” and “no Popish Government;” saw one person ringing a rattle; saw Henry Hanbidge and a party standing over a man, with sticks, &c.; they fought round and behind witness, who observed a fight in the other corner of the gallery also.

Mr. Driscoll asked him if they (the Hanbidge’s) were in the gallery before him; he said he was up soon after them, for he had occasion to buy a ticket; he identified the two Hanbidges, because he said they are remarkable men; he admitted that there was but a dusky light in the gallery, and said he was examined before the Grand Jury for two or three minutes; they asked him did he see a bottle thrown, or a stick? and then said, “that will do, you may go.”

The Attorney General repeated this part of the testimony, and also, that the witness was going to tell them (the Grand Jury) what he knew, but they said that’s enough.

Michael Farrell examined, by Serjeant Lefroy.—Remembers the night of the 14th December; observed Henry Hanbidge in the upper gallery that night, there was but one man between them; at the end of the play there was hooting; he saw Hanbidge take a bottle and throw it forward; he was sitting in front of him and to his left; he threw the bottle, not over head, but in a half round way, swinging his arm round; he judged from

the way it was flung, that it would go to the left hand side of the house; when persons stood up before him he could not see the stage; heard "hoots for Wellesley" "no Eastern tyrants," uttered by the persons in communication with Hanbidge, who seemed all riotously disposed; Hanbidge was taken in the gallery afterwards, but he did not stir from his place; witness solemnly declared he never lost sight of him, (Hanbidge,) from the moment he threw the bottle, until he was arrested; after he had done the act, witness was determined never to lose sight of him until he was arrested; witness followed him into the Police Office, but he was put out by an officer, after he had said to that Officer, I know more of this than you are aware of; witness went next day at half-past twelve; stated he was a working jeweller, resided from 2 years old till lately in London; he was born in Ireland.

Cross-examined by Mr. Blackburne—He answered that he was not active in getting evidence to support this prosecution; does not know a Mr. Lane; made no declaration respecting the guilt of the persons on the Saturday night; mentioned his examination before the Grand Jury, to several on that day, especially to a Mr. Gordon, who took it down in writing, but did not tell his object; witness saw what had been taken down in writing; it was pretty correct in an English paper, *The Courier*; could see the person of the Lord Lieutenant from where Hanbidge stood; did not measure the distance from where Hanbidge stood to the lattices; Hanbidge did not raise his hand; witness supposed he (Hanbidge) took the worst place in the house for throwing the bottle.

Counsel read the paragraph from "*The Courier*."

Counsel.—Is that Mr. Gordon? It is—, is he not connected with the Public Press; he is.

Witness asked was it to go into the Correspondent Newspaper and Mr. Gordon, said not.

The Grand Jury had not disposed of the bills then.

Mr. Gordon called on him, he said, and asked him was he examined, &c. by the Grand Jury. When they were coming out of the Theatre, Alderman Darley arrested Hanbidge; witness never spoke there to the Alderman on the subject.

Mr. Scriven cross-examined him.

He replied he went to College-street Office after Hanbidge, but was ordered out; after coming out he never said "he had sworn against the b——y Orange thieves;" did not say he had sworn against the Orangemen; never said he would be glad to be revenged on the Orangemen; said not a sentence to any one outside the door, when he came from being examined before the Magistrates; never said to Mr. Hill he was glad he had sworn against the Orangemen.

Cross-examined by Mr. North.

When standing in the upper gallery he said his forehead would not reach the dip of the gallery, there was one behind Hanbidge, and in drawing his arm he could not hit any one; where

he threw it from was less in the view of the house than the centre.

Philip Ryan examined by Serjeant Torrents.

Identified George Graham ; saw him in the front seat of the upper-gallery ; witness was in the middle gallery ; heard George Graham make noise with a rattle ; did not hear the noise of the rattle after the play was over ; while the rattle remained good or useful for creaking in his hand, George Graham used it, and he struck it against the edge of the gallery after that ; it broke in two ; saw him raise his hand about the time of singing the glee ; saw him stand up, look into the middle gallery, and he then threw the piece of the rattle he had in his hand in the direction where the Lord Lieutenant was sitting ; recollects some of his (George Graham's) party drinking out of a bottle, who drank the "Glorious Memory," "Protestant Boys," Boyne Water," and said "this night the gallery is our own ;" saw they were backward in the upper gallery, having large white sticks in their hands ; he admitted that he was examined before the Grand Jury, and gave them in substance the same testimony as he gave in the Court of King's Bench this day. He was cross-examined by Mr. Hamilton, and said in distinct terms he recognised the man at the watch-house, and swore accordingly.

He described his (W. G.'s) person to the Police constable, who said to that description "that man is in the watch-house ;" he described his inside coat and outside coat, the latter was of a dark or bluish mixture ; witness is stationed as preventive Officer of excise in the county Galway ; came up to urge a claim for revenue duty and other matters ; got part of the reward expects a balance.

Bernard M'Namara, Esq. M. D. examined by the Attorney-General.

He said he resided at Ballinakill ; was in the Theatre on the night laid in the indictment, and that the majority of the persons in the upper-gallery were riotous, and cried a clap for Alderman Darley, Lord O'Neile, Lord Talbot, with groans for the Lord Mayor and Lord Lieutenant ; heard a voice exclaim, "boys mind your fire ;" this was on the left hand of the upper gallery : saw one man in the act of winding his arm ; did not raise it but threw something ; marked its transit, and distinctly ascertained it to be a bottle ; his view was instantly obstructed by persons standing up before him ; when they sat, he saw a man in the orchestra holding up the bottle—witness turned towards the traverser, and said "that's the man, (pointing to H. Hand-bidge) that threw the bottle, if I can believe the evidence of my eyes at all, it is he ; I never saw him since that time until to-day."

Cross-examined by Mr. Scriven.

Admitted that he was in custody since a fortnight ago for an alleged breach of the peace for opening a pound ; for there was a man with him who opened the pound-gate (laughter) witness did not break it open but took it off one hinge ; he said there was a cross indictment by him against the man, who was ac-

quitted of the rescue; witness was found guilty, and received sentence of three months imprisonment; some gentlemen to whom at table, he described what he saw at the Theatre, he supposed, circulated it, and therefore he has been called on to give evidence; the cattle taken out of the pound were his Tenants.

Mr. Spear cross-examined him.

Saw him only once since the night at the Theatre; it was this morning amongst the people; Handbidge leaned over in the gallery, near or about the end of the bench; his face was so remarkable and his form athletic, witness recognised him easily, was not in court when Mr. Farrell was identifying Handbidge; had no body to assist him in identifying him.

This witness was cross-examined by Mr. North.

When he heard the expression, "mind your fire," he was frightened, and took a survey of the upper gallery, for he was apprehensive there were fire arms there; went down to Ballinakill since the 14th of December, and never swore informations; witness can with safety say, as he hopes for salvation, that he had no idea of his punishment being mitigated by giving this evidence.

The Court rose before five o'clock, and adjourned to ten next morning.

THIRD DAY, WEDNESDAY, FEB. 4.

On the sitting of the Court, at 10 minutes after nine o'Clock, *James Tiernan* was the first witness called; he stated, when examined by Mr. T. S. Townsend, that on the night of the 14th December last, he sat in the second row of the upper gallery of the theatre, wherefrom he observed George Graham; he was ringing a rattle; he sat a little to the left of the center of the upper gallery; groaning and hissing, at one time to the right, at another to the left of the upper gallery. We (he said) had the most noise in the upper gallery (laughter) saw a bottle thrown, not the person who threw it; to the best of his opinion, the bottle came from behind him, and passed over his head; saw the head of a rattle thrown by George Graham, during the performance of Tom Thum; the rattle dropped at the foot of his Excellency's box; witness, when the rattle was thrown, cried "shame, shame," and was instantly struck with a bludgeon on the shoulder, and on the thigh; the sticks used in the house, were new, made for the purposes; the sticks were square, the edges sharp; saw George Graham taken into custody, never lost sight of him until he was arrested.

Cross-examined by Mr. Driscoll.

Witness said he was a Chandler; saw the bottle because it had glanced over his head and passed over the pit; did not see the man who struck him; when struck he looked about; knew no one there, and then sitting down, put up with what he got; did not see any person brandishing the bludgeons. He gave informations on St. Stephen's day, the 26th of December, would have come forward sooner, but from fear of the party in the gal-

lery; saw the manner in which the whole country took it up; he got a little courage then; witness saw the bottle strike the curtain about the center of the stage.

Cross-examined by Mr. Scriven.

He never saw the upper gallery so crowded; there was a great crush, the whole way to the gallery was crowded, almost packed; a great many could not get seats: his ears were "bothered;" did not hear three words of the play.

Mr. Scriven—"Some of the noise came from your own pretty mouth?"

Witness—"Yes, (laughter)—when the Protestants Boys were called for, he uttered a smothered sigh! (laughter).

Mr. Scriven,—Q. When there was a clap for Lord O'Neill, did you hiss or groan? A. No. Q. Did you ever hear that Lord O'Neill did any thing but good? A. I never heard of any good he ever did; would not applaud Lord O'Neill, for he is the Grand Master of the Orangemen.

Mr. Scriven—Q. Did you hear a groan for Sheriff Thorp? A. No, he was often clapped.

Thomas Staunton Cahill, sworn.

He was examined by the Solicitor General. He said he was in the Theatre, on the night of the 14th December, was in the middle gallery; saw a bottle pass through the air in its progress over the pit; it appeared to have come from the upper part of the house; the impression it made on his mind was, that it seemed to have come from the left hand side of the upper gallery.

Cross-examined by Mr. Driscoll.

When all the house were applauding the Lord Lieutenant, heard one voice groan "Ah Wellesley;" looked up, saw a man hold a bottle, and drink, and help others, and throw down a card inscribed, "No Popery."

Examined by the *Lord Chief Justice*.—The card came from the vicinity of the man who held the bottle, and some man said, "take that up and read it." On raising up his head again, he perceived a bottle in its progress to the stage.

Witness's examination resumed by Mr. Driscoll.—He said he gave this information, on Friday last, to the Right. Hon. gentleman there.

The Attorney General—Witness had mentioned it in company; was told his testimony would be of use; and conceived it to be his duty as an honest man, to come forward now.

Examined by Mr. Perrin.

Witness saw some persons in the gallery drinking porter, or something like it—some dark liquor out of a bottle. Saw the bottle held to their mouths.

A Juror.—You said you saw him drink porter, or something like it?

The Attorney General.—I hope the Juror will follow up the question?

Mr. Perrin.—When I asked you did you see Hanbidge, particularly, drink porter, or some dark liquor did you reply "Yes?"

Witness—I think I did; does not think the performance was going on, they were in the act of raising the foot-lights when the bottle came down. When the bottle caught his attention, it was mid-way between the gallery and the stage; it hit the curtain on the left hand and rolled down, when it was taken up by a person in the orchestra; in its descent from the gallery it was going neither horizontally, nor perpendicularly but with a degree of obliquity, fast descending, did not see it give any turning at all; the lights were not quite up, they were raised immediately.

Counsellor J. Crosbie Graves a Magistrate of the Head Office, examined by the Attorney General.

He said he was in the Theatre when the Lord Lieutenant went there; that he saw Mr. Forbes in the Theatre; was in the Theatre when the bottle was held up; was in the back part of the box next the Lord Lieutenant; when first he saw Mr. Forbes; witness was in the third tier of boxes opposite the Lord Lieutenant when “shame, shame,” was cried at the leader, shewing up the bottle; witness then thought the interposition of a Magistrate necessary, and went up to view what was passing in the house; Mr. Forbes when he saw him, was on the left hand side of the upper gallery, and in the pigeon holes close to the spikes; saw confusion and tumult on the left hand side of the gallery; there were three persons in the pigeon holes close to those spikes; one of them was Mr. Forbes; they had their hands to their faces and were using whistles, “for fun.”

Witness addressed Forbes and said, “what do you do that for?” he replied, “for fun.” This was considerably after the cries of “shame,” “shame;” the three persons described had their faces directed towards the gallery; witness, remonstrated with Mr. Forbes, but he took no notice: Mr. Tudor, a Magistrate, also got into the pigeon holes, and both apprehended Forbes; he gave himself up to Mr. Tudor, who said, “Mr. Graves also was a Magistrate;” “oh,” he replied, “Gentlemen, I’ll go with you;” witness asked him to give up something he had in his hand, and he delivered up his little whistle, (producing it;) when at the watch-house, Forbes said he was as loyal an individual, and as much attached to the King, as any one; witness replied, he would not doubt it, but said, you take an awkward mode of shewing it by associating to insult the King’s Representative; witness consented to take bail for him when the play was over.

Cross examined by Mr. Johnston—Witness should think Forbes did not know he was a Magistrate when he replied “for fun;” the arrangements for directing the Police were left to Mr. Farrell; the Police were sent in private clothes; did not hear of the rattle, having been thrown before he brought Forbes away; where he was situated he did not hear the noise of a rattle, there was a great deal of confusion; but the noise of a rattle did not strike his ears; there was depositions taken down in his office, Mr. Farley’s was; also, as to what took place at Flanagan’s in Essex-street, there was none taken against Mr. Forbes, in that traversers presence.

George Harris Serjt. Major, 7th Hussars sworn, and examined by Serjeant Torrens.

Recollects being at the Theatre in the lower gallery on the night of the 14th December last; observed a disturbance in the upper gallery: there was none, in the lower gallery; noticed a person in a front seat particularly noisy from the beginning, with a rattle, it was George Graham, he made the noise sometimes by turning it in his hand, and at others by beating it against the front of gallery; towards the latter end of the play, and he believed after the Glee was sung, saw a piece of wood nearly striking the person of his Excellency; witness then turned on his seat to observe the actions of Graham, and saw him throw a similar piece of wood in the same direction the first had taken; does not know where the second piece of wood fell after it passed him; witness was examined before the Grand Jury; one of the Grand Jury doubted his evidence.

Cross-examined by Mr. Hamilton.

He stated that he swore an information the following morning; had gone to the play, merely for amusement, and had leave of absence untill nine o'clock; was then a serjeant; had been so for nearly six years; is now serjeant-major; his service during the summer has been on the escort duty, attending his Excellency to and from the Co. Wicklow; does not know that he has supped for his dinner in every day, but dares to say he shall; has supped, but never dined in the park; drank the King's health; has drank the Glorious Memory before, but not since the 14th December; did not propose it there (at the Park) the night he supped (great laughter.)

Charles Skinner, examined by Mr. J. S. Townsend.

His evidence was, that he had been assisting the cheque taker, and afterwards was on the stage, where he found this rattle, nine or ten feet from the Lord Lieutenant's box; there was nothing else on the same side; picked it up about twenty minutes before the performance was over.

He here produced the rattle which appeared whole and complete (*not broken*,) as was sworn to by other witnesses. It did not exceed six inches in length and was as we are informed only 4 oz. weight, had much more the appearance of a child's plaything than a watchman's rattle.

Mr. George Farley was the next witness sworn, he was examined by the Attorney General.

He said he was an attorney; was not in the Theatre on the night of the 14th December last; was in company with Mr. James Troy, a Merchant, who resides in Bridge-street, between 10 and 11 o'clock that night, at Mrs. Flanagan's tavern in Essex-street; had spent part of the evening at Mr. Troy's house; he and Mr. Troy accompanied some ladies to get a carriage, the night having been very cold; Mr. Troy and witness crossed Essex-bridge, and went into Mrs. Flanagan's; had no other object in going in than that stated; there were a good many persons in the room; a number of persons rushed in shortly after, they came in a body, the box was small, and they completely crowded the place; a number of them got into the box opposite

to where witness and Mr. Troy were sitting; those who could not get into the box surrounded, and held a conversation together, with their heads down; they remained communicating with each other some minutes on some private subject, one word of which witness did not hear; the party consisted of eight or ten, the box would not, he believes, hold more than six; others of the persons that came in went up the room, some then dispersed, some went to the lower part of the room, and it was likely some went out of the house altogether; there were two gentlemen in the box with him and Mr. Troy, who were not of his party; knew the persons of Mr. Graham, the two Mr. Atkinsons, another he did not know by name, that gentleman Mr. Forbes, Mr. W. Graham, and Mr. Brownlow, were the four who sat in the box opposite to him; at that time did not know Forbes's name, has learned it since; knew the three prisoners already named; was examined before the Grand Jury; he corrected himself here, and said Mr. Brownlow was not in the box, but had sat on a table adjoining it; they seemed all to be known to each other, all conversed and spoke of the Theatre; one who sat in a box near witness, accosted Mr. Brownlow, and accused him with not having been in his place in the gallery according to his appointment, he said he was as well where he had been. The other said, you are a pretty boy to keep your appointment, nothing would do you but the pit. Brownlow shook his head and said, "for the purpose of what was to be done, he was as well where he had been" there was a great deal of conversation besides this; could not recollect it all; the person's name who addressed Mr. Brownlow, as he thinks, was M^r Intosh; the four persons who had been in the opposite box, retired to supper at the other end of the room, where they conversed about the theatre; the throwing of the bottle was spoken of—of a stick also,—(some indecent expressions said to have been used by them at supper was suppressed by consent of the Court, the prosecution and the defence;) there was a kind of regret expressed that the bottle had not taken effect.

Cross-examined by Mr. Blackburne.

He staid from ten or eleven until a little after twelve; he had gone not to take one tumbler but to drink what he wished; he spoke to a Mr. Perceval who was going out when witness came in; had no objection to the company who remained, nor to some of their toasts; would not have staid so long but for the inattention of the waiter; took two tumblers of punch; witness left the four gentlemen behind him; there was a Mr. Pounden in the room and another; the door was shut by the waiter; the gentlemen might have been drinking; the expressions spoken of, were uttered in a box where they supped, three boxes apart from him; did not hear them say, "no true orangeman could have thrown the Bottle or rattle;" does not think he was intoxicated; does not think Mr. Forbes was so tipsy as to be incapable of knowing what he did or said; he continued drinking; though he very incoherent, and he was astonished that he would let out his mind before strangers; did not hear him define the object for which he would go to Botany Bay.

Cross Examined by Mr. Scriven.

Does not remember whether Mr. Brownlow was there before he (witness) came in. —Swears positively that Brownlow and M'Intosh did communicate with each other; Mr. Pounden and two others sat opposite to where Brownlow sat; rather thinks they were not in the box at the time the conversation took place between M'Intosh and Brownlow; the expressions was "a damned, or a bloody miss," and not "trick," the word was "miss" and not "bit" or "trick;" Brownlow drank the toast while sitting on the table.

James Troy Sworn — He was Examined by the Solicitor General.

He stated that he was in company with Mr. Farley the last witness, on the night of the 14th of December. His testimony went to corroborate Mr. Farley's; he heard the words 'where were you, why not at your post?' applied to Mr. Brownlow; heard him answer "I was in the pit, that answered as well." He identified Brownlow as one of the party at Flanagan's; identified Mr. Forbes, as another who had been then present, also heard mention made by them of the bottle and stick which had been thrown; heard the expression of "blast it how it missed," or something to that effect. One Gentleman said he was now in for it, but he did not care, provided the Papists were put down. Toasts were drank of "Extermination to Popery and Popish Governments." "Confusion to the Popish Lord Mayor and the bloody Marquis Wellesley." Heard "Send me to Newgate or to Hell, if I can accomplish the object, but the worst of it is wherever I go I meet a Papist;" he heard the King toasted finally by the party at Mr. Flanagan's, and by Mr. Forbes; heard "we shall be better prepared another time."

Cross-Examined by Mr. Rolleston.

Witness is not in the habit of drinking the Glorious Memory; he has no objection to drinking it in the proper acceptance of the toast, the proper acceptance is, "that he would drink the memory of a brave good man; the witness had paused before he gave the last reply, and Mr. Rolleston said it had stuck in his throat (laughter) The Gentleman in the box where the toast was drunk, had as good but not a better opportunity of hearing it than him; witness rather thought Forbes had been flushed with liquor. Mr. Rolleston if he had committed high treason by blowing a whistle in the Theatre, would he have been so imprudent as to tell it in a

tap-room; witness I did not think blowing a whistle would have been high treason; Mr. Rolleston, God bless you, I thought it had been—(laughter;) does think they had been very imprudent; thinks Mr. Forbes was mad when he said he would go to hell; he was very intemperate; Mr. Rolleston, so he said he was afraid he would meet a Catholic if he went there; It was a Papist he said, observed the Attorney-General, Mr. Rolleston ought to know a Protestant was a Catholic.

Witness said, he believed the warmest wish of Mr. Forbes's heart was to support the Protestant Government: he gave the Duke of York and the Army; witness seldom sits in company where the Glorious Memory would be proposed.

The Chief Justice—I think it right to say this is a course of examination we have only hitherto permitted, because no objection was made to it.

The Attorney-General—The Court will do us the justice to admit, that on the part of the Crown we have no objection to give ample scope for imagination of Counsel on behalf of their Clients.

Henry Webster, Esq. Aid de-Camp to the Lord Lieutenant, was the last witness called.

He said he was in attendance, as Aid-de-Camp in Waiting on his Excellency on the night of the 14th of December; witness said, that at the end of the play a hard substance struck the box near Lady Anne Gregory and Mrs. Goulburn, who sat in the box next to the Lord Lieutenant; it rebounded from the cushion, passed his Excellency's head, and dropped on the stage; he pointed to the rent made in the cushion by the hard substance to the persons in the pit, who immediately stood up and cried shame, shame.

At the end of this gentleman's testimony the Attorney-General said, my Lords, we close the case here on the part of the Crown. This was at half-past twelve o'clock.

A Juror asked Mr. Webster if the rent in the cushion was occasioned by the hard substance; he said he conceived it was; the rent was about the size of a shilling.

The Defence.

After a lapse of about half an hour, during which time the Judges and Jury retired to take a little refreshment.—at One o'Clock.

Mr. DRISCOLL rose and addressed the Jury for Mathew Hanbidge and George Graham.

My Lords and Gentlemen, said Mr. Driscoll, I never before rose under such overwhelming emotions; but without giving utterance to any thing that can excite angry feelings and relying altogether on your justice and the soundness of your judgments, I shall address myself altogether to your understandings and common sense, without attempting to inflame or agitate your passions. My Lords and Gentlemen on the day after this transaction, the whole city was filled with alarm, and every one believed that the plan as at present charged, was formed and attempted. At the parish meetings assembled on the occasion, I, Gentlemen joined with my fellow citizens in expressing my indignation; but I am now convinced Gentlemen, that the noble Personage who was addressed, feels convinced that too much importance has been thrown around the business, and that the stain of the whole has been washed away. In these addresses indignation was the most prominent feeling, and even now every epithet that the imagination can conjure up, and that the press can give vent to, have been applied to the unfortunate traversers at present under trial.

Considering then Gentlemen the frailty of man, can your minds and your judgments be free, and are you sure that you are unbiassed. Addressing myself to your passions Gentlemen I would implore you to stifle and to still them, and to give freedom to the best gift Heaven has blessed you with—your Judgment. Gentlemen—you could not fail to have been further excited by the splendid address of the Attorney General, the most powerful and the most eloquent that I ever heard delivered in a Court of Justice. Gentlemen, your admiration must have been excited, and your common sense led far away by that most feeling and eloquent address.

Gentlemen, the Attorney General has said right, this was a most important trial, because it will decide whether these men were so heroic in iniquity, as to attempt the crime with which the Traversers are charged. Gentlemen you are told of his Excellency's public services; of his having quelled an open Rebellion; of his having averted a famine; Gentlemen these things are all true, my client's don't deny it; but Gentlemen, this parade of virtue must have prepared your minds too readily to receive the evidence. Gentlemen, use your discretion and judgment, but do not be borne down, and never forget that John Atkinson has positively sworn, that it was no part of the alledged plan to offend or assault the Lord Lieutenant.

If a reluctant or treacherous witness can have any effect on you, you must acquit the prisoners, my clients.

Attorney General—I wish to apprise Mr. Driscoll, that he is not to take for granted, that we admit altogether his statement, because we do not contradict it in this stage.

Mr. Driscoll resumed—My Lords, I dare say it was a mixture of kindness towards me, as well as sense of public duty, that induced the Attorney General to make those remarks, but Gentlemen, I should like to be set right, for I do not wish to practice imposture. Gentlemen, a corrupt witness blunders and discloses the foulness of his heart. With respect to George Atkinson, after giving his evidence, he tells you that on Thursday or Friday he began to feel some scruples; his amiable heart was touched, and off he went in the most affectionate manner to disclose the whole to the Representative, but a centinel changes his resolve, and he goes to the widow's in Ship street, and punctually marshals his forces, and places them at their posts. Gentlemen, I dismiss that fellow with these observations.

His brother and father enjoy places under Government, and notwithstanding they go to the Theatre to make the Government unpopular—and he closes the detail of the plan with stating that it was not the intention to assail or offend. How could he effect his object gentlemen, without assailing or offending? Gentlemen this fellow is not afraid to admit that George Graham was brought to the Theatre, but he does not venture to state that there was any rattle. He says of M. Hanbidge, that he desired him to bring his brother with a number of men to go to the play house, and that Hanbidge assented. Here two unfortunate persons are to be consigned to punishment because two wretches give evidence against them Gentlemen, when I consider the majesty of the trial by jury, I cannot think you would lend yourselves to such reprobates as the Atkinsons. It has been said that the overt act was to fling a bottle. With a glimmering recollection of the doctrine of vision, I am unable to explain how a person who states the bottle to have danced across his eye in the descent with a velocity in proportion to the height from which it was flung. I am unable I say, to account how this person could follow it in its descent and detect it in the act of hitting the drop curtain.

Gentlemen—Look at the inconsistency of this evidence—One states, that Henry Handbidge had room for another person near him, while another states, that the crowds were so great, that they could not stir. But I will prove that Handbidge had no bottle at all, and we shall produce evidence to contradict Kelly and the Rev. Dr. from Ballinakill. I was amazed at this man's account, "boys look to your fire," which is only mentioned by him alone; and further, look at the discrepancy between him and Farrell, who states that Handbidge managed to have nobody near, while the Doctor, let loose from the pound, (laughter) states that the crowd was so great and the gallery so stuffed, that Handbidge had to bend over. I don't like to impute perjury, but I have a sacred duty to perform, and I have evidence to prove that

Dr. M'Namara is not worthy of credit, Gentlemen, it has been the practice of corrupt and interested men in all ages to speculate on temporal advantages. This Doctor has been sentenced to three months imprisonment, one fortnight of which has only been expired. Do you think from his character and conduct that such a mind would hesitate to speculate on the clemency of the Marquis Wellesley. By his evidence here this day, Gentlemen, the best judges and the ablest men, have been imposed on, and surely, the Attorney-General may have been duped in the present case. But, Gentlemen—Independently of all this, there is a privilege given of hissing and applauding at Theatres, which has existed since their origin, and we shall bring an old and venerable lady here, nursed in the lap of luxury, who will tell you that she never felt any alarm, and did not consider the noise greater than usual. How then could the young, the vigorous, and the athletic be afraid. Gentlemen—Farrell, a working jeweller, who came here from England four years ago, says, he heard the cry of “Boys look out,” and that a man whom he had never seen before, but of large person, and who *must of necessity be* H. Handbidge flung the bottle.—Farrell is so inflated with loyalty, that he thinks you should give credence to his wonderful powers of identification. The Doctor who had never seen Handbidge before, recognizes him at a glance, as the person who cried out mind your fire, notwithstanding the dusky and dun light in the galleries.

Gentlemen, I shall prove to you that it will be impossible to give Farrell credit. It is said that Graham had a Watchman's rattle, and that he flung the two sides of it successively; but I shall prove it was not a watchman's rattle, but a clapper used by farmers for the purpose of clapping, and that it broke accidentally; and that some person snatched up the end of it and flung it down—and all this is visited on this unfortunate youth. Gentlemen—If you listen to your consciences, you must acquit these men, and I pray you to do your duty.

Mr. North's Speech.

Owing to the Court being crowded to excess, we lament that we have not been able to do that Gentleman sufficient justice in closely following and detailing the most beautiful, classic, energetic, and powerfully persuasive pieces of oratory we ever before heard, which he delivered on this occasion. He spoke for nearly three hours, during which time not a breath was to be heard, save at intervals, when bursts of applause escaped his highly delighted auditors.

MR NORTH:—‘Gentlemen of the Jury, I rise on the part of Henry Handbidge and William Graham.—When this case was about to be brought on, I confess I was anxious to have my clients trial postponed. After the affair in the Theatre, the cities, the counties the catholics, and the church, all united in pouring in Addresses to the Lord Lieutenant, for the merciful interposition of Providence in so far sparing his life; taking guilt for granted; nay, not that alone, but the answers of the Lord Lieutenant himself to these Addresses, kept alive the popular flame until it became a consuming fire. Thank God, aid has been given to my clients by the exaggeration of their enemies, when they advanced the monstrous and incredible charge of assassination and murder. There is a peculiar circumstance that characterizes this information, for never are the liberties and the rights of the subject in such danger as when popularity and power conspire together; the flood-gates of liberty are then thrown open, an overwhelming torrent rushes forth, and overturns the privileges and liberties of the great body of the people. I implore your attention Gentlemen of the Jury to this very extraordinary case; it cannot be denied that there is an unnatural feeling between the people and the servants of the Crown. I confess I conceived the Attorney-General had been mistaken in filing the *ex-officio* informations; the precedent quoted with great art by the Attorney General, was decidedly against himself; for when the *ex-officio* information was filed at the period he adverted to, it had aroused the indignation of that House of Commons he had spoken of, who appointed a Committee of the Learned Profession, and of the House itself, to examine into the matter; and they declared the Attorney-General had no precedent for filing an *ex-officio* information, since the institution of Grand Juries was transmitted to us by our Saxon ancestors; I allude to the effect of precedents, that it would be indecorous in me to pronounce the proceeding illegal; but yet, I arraign it as an alien to the mild spirit of the British law, and practically and essentially unconstitutional. I will, tell the Attorney-General, without fear of

contradiction, that the benches in the Theatre might have been broken up, the pannels torn away; and if the Lord Lieutenant had not been there, there would, I am persuaded, have been no *ex-officio* informations filed. This is a State Trial, introduced at what time—in the midst of Term, carried on day after day. Why? Because there had been a riot in the upper gallery of the Theatre. The traversers do not deny that they are ORANGEMEN; they do not deny it, they glory in it; perhaps it is my private opinion that the society of Orangemen is not calculated for the regulations and well-being of the country; but the question is this—have these men been charged with disloyalty? Oh, no, Gentlemen of the Jury, loyalty is the bond that binds them together, growing with their growth, and strengthening with their strength; therefore I do not hesitate to say, that a charge of disloyalty, even on the first opening of it, is glaringly improbable. The Attorney-General calls our attention to that state measure announced now for the first time, viz: the undressing the statue. On that subject I may give you my private opinion—that that idle ceremony might be dispensed with, and every thing offensive to my Roman Catholic countrymen should be avoided; no man more wished that they might have all the privileges that should be the reward of talent and integrity; but notwithstanding this, I was surprised beyond expression, when, on the 4th of November last, I beheld the scene exhibited in College green. When I saw the statue, for the first time, stripped of those honours which had long been the old man's pleasure, and the young man's pride; when I saw the statue surrounded, and hemmed in with broad-swords and a military array, I thought the city had been invested, and that some Scythian barbarian had taken possession of the great William: that monument of our liberties, our properties, and our honours.—(*Here a burst of applause was seriously reprimanded by the Court.*)

I did imagine gentlemen, there was no security for Protestant rights, when that statue was arrested from us, its rightful owners, to please whom? a populace that despise it! When that statue was made a present to the City of Dublin, the hero that gave it, glowed with all the attributes of God-like majesty; His gift was worthy of himself, it was the gift of frankincense on the altar of Freedom. This Gentlemen, is not the glowing imagery of fancy, it is the honest effusions that springs from the heart. What has the Government to do by interfering with the old established custom of decorating the statue of the Hero, from whom these countries have derived so many benefits?

The Attorney General too, has made his offering on the altar of King William, in his statement; it was suited to his great capacities, and his powerful genius; but why should he sneer at the humbler offerings of less talented, and less

cultivated men? The soldier in the field of battle honours his tattered colours, as if they had been the drawings of an Angelo or a Raphael; and I claim for those men, the possession of their rude enjoyments, although perhaps, they are a little too pompously and publicly displayed. Had the Attorney General consulted the illustrious individual at the head of our Government, he would have told him, that even the feeble and pliant Hindoo, who is a habitual slave, who submissively bends his neck beneath the feet of his oppressors, has never yielded to the interruption of that which he holds dear—the distinguishing ceremonial of his cast. No, Gentlemen, not even a *Tamerlane* or a *Zurgis* could accomplish that. Gentlemen, when it was announced that the statue was not to be dressed, when the prohibition was uttered, the Orangemen were irritated—that irritation extended from the humbler to the higher circles; at this crisis the Lord Lieutenant announced that he would go to the Theatre—for what purpose Gentlemen?—Was it to gratify himself with viewing the performance of *She Stoops to Conquer* and *Tom Thumb*? No it was not to see a play, but for another, and a greater purpose. He announced his intention of going to the Theatre in state, surrounded by his Court, and attended by all the attributes of Royalty; he went there to receive the cheering applauses of the people, if he deserved them.—How felt the traversers? Graham and Hanbidge were unwilling to have it represented on the other side of the water, which it would have been promptly, that he was received with undivided and unanimous approbation. Gentlemen, on this trial I ask you, has any thing more, has one single fact beyond this been proved? I boldly assert that it has not. Well, the event took place, he went: there was disapprobation—a bottle and a rattle are said to have been thrown; and I fear, that under a mistaken view, and erroneous impressions, the Lord Lieutenant has believed that it was intended to have perpetrated on him no less a crime than that of *murder*! These men agreed to go to the Theatre! suppose they did, and that they loudly vociferated for *The Boyne Water*—they wanted to let his Excellency know, that the air, the music, the notes of that, their much-loved chaunt, had aroused within them the old spirit of their great ancestors. It has been said that the Lord Mayor was groaned, hooted, reviled, insulted; Well, what then? I never heard that a Lord Mayor *could touch for the king's evil*, or that there was any royal virtue in the gold chain or the white mace. It was given in evidence, that a special exception was made in favour of the Lord Lieutenant, and that it was stipulated that no offence should be offered to him. Gentlemen, there are few aware of the mental greatness, and the overpowering eloquence of the Attorney General; few aware that it is in the power of that exalted individual to

represent even the simplest events in a manner calculated to startle the human mind. Yet, Gentlemen, what has become now of his seemingly firm and closely connected chain of apparently alarming facts; why, Gentlemen, the strong built statement of the Attorney General was crumbling into utter dilapidation the moment that George Atkinson concluded his statement. Oh, Gentlemen, it is said the traversers had had another object—well, what was that? to drive the Lord Lieutenant out of the house; I will grapple with that assertion too: some one said, he will see that his administration is not popular! he will leave the Theatre, *and with the blessing of God, he will leave the country too.* But Gentlemen, how was it proposed to drive him out of the house? How was it proposed to drive out the Vice-Regal party?—To affright and conquer them! Where were the armed bands? Where the musqueteers—those armed with guns? Where were the battalion with pistols? Where the legion with swords? The implements for sapping and mining—where were they all? Those mighty conspirators were arranged round their table; one cries we'll get the Lord Lieutenant out of the country; what will you arm yourself with? cried another. Oh, said he I'll arm myself with a WHISTLE!!!—*(laughter)*—I'll whistle him out!—*(Roars of Laughter)* Another arms himself with the *Boyne Water*—One has a bottle, another a rattle! and thus formidably equipped for conquest, they march to the Theatre Royal Hawkin's-street. This is the course taken by the *desperate and bloody conspirators!!!* If murder—monstrous absurdity—if assassination had been the object, to kill their purpose, would it not have been prudent, Gentlemen for some of these horrible assassins to get near their destined victim. But what on the contrary did they do?—They went to the gallery—the upper gallery—that part of the house which was most removed from the devoted and *doomed individual.* By way of making sure to hit the mark, they go to the remotest part of the gallery with their *infernal machine*; they took up a position whence it was impossible, had they been ever so dexterous, to have hit the Lord Lieutenant.—Gentlemen of you who are rational and intelligent, I ask, do you believe that such means had ever been adopted for the accomplishments of such ends, as have been stated, is there any thing like a shadow of truth in this? You have this too on the evidence of two brothers, who are, so help me God, the *greatest villains* ever produced in a Court of Justice. Oh Gentlemen! mark, they were the ancient allies of the Traversers, who got possession of their secrets; who wormed themselves into their bosoms; and then like Judasses turned round and betrayed their sworn brother Orangemer, to their bitterest enemies, and exposed them to the full weight of the dire prosecution which the Government of the

country has instituted against them, When they have done their work, let them receive their reward in *hard cash*;—I trust that they will not be sent to pollute the *Customs, Excise, Police*, or any of the public offices by an appointment, for they would carry with them corruption, and spread an epidemic contagion and terror by their presence. Gentlemen, what man's life would you vote away on their oaths? Would you take away the limb from a spider on such evidence? I am not a living man Gentlemen, if the story of going to the park to apprise his Excellency is not a lie. If that had been the case, why was not the sentinel, who has been stated to have stopped him, brought forward? The Attorney General could procure the attendance of that sentinel: but where is he? I care not what his religion may be, whether Catholic or Protestant; where is he? Gentlemen if you believe he swore falsely in that instance, you are bound to expunge the whole of his evidence from your notes. He went back to his brother from the Park! Then came the evidence of that brother, "*par nobile fratrum*;" but Gentlemen no man that saw the first Atkinson on that table, no man that looked at him but could see the terrors of his heart streaming and oozing out from every pore in his countenance while his face resembled the description we have of CALIBAN; for it was clouded by the gloominess of his temper, and the malignity of his purpose.

He had his turnings and twistings in his evidence; he shuffled and he paused, and he "did not think of it." "It did not occur to him," &c. If the phrases used by him had been translated into Italian or Latin, it would ring through the Empire as *Non mi Ricordo* had done on the Queen's trial, and continue to be an everlasting reproach to every pallid, treacherous, stammering, tottering, guilty witness; daring as he had been he could not deny that Mr. Forbes has said, *he could have been no true Orangeman who had thrown the bottle*, Although the Attorney General had tried to fritter away that part of his evidence, and had referred to their Lordships notes, where the little tack of, "*I believe he said*," was proved to have been added to the admission, because it had been wrung from an unwilling and reluctant witness, So much for the two Atkinson's. With respect to William Graham there is scarcely a tittle of evidence; that young man by profession a Printer; went to the Theatre, where he bought his ticket, and where a number of placards were thrown from the lattices; one fell near him in the pit, he said "let me see it," instigated by the same natural curiosity that urges the passenger through your streets to purchase the Racing Calendar, or the Pic Nic Dinner. Lambert said he groaned, but no, he cheered the Lord Lieutenant, but he did not cheer the Lord Mayor. It will be proved to you he left the pit after the second act, and did not return to it

more. With respect to the other individual, Dr. M'Namara comes fresh from the pound of Ballinakill to advance evidence. He states that he sat on the third or fourth seat from the front of the middle gallery and my client on one rather farther back than the same position in the upper gallery; he swears he seen him throw the bottle, if he seen what he asserts in his silent rays? he observed it in his transit. whilst the play was going on, was there no other person in the whole house to observe but this hero? Was there no giggling girl on the look out for her sweet-heart, to view this thro' her spy-glass? no not one. Is there a star in the firmament that could fall such a height, and not be broken? No Gentlemen, this wondrous Bottle was not even starred! —mark, Gentlemen, as my learned friend, Mr. Perrin, unwillingly extracted from the evidence, that in the very centre of the stage, Mr. Fallon without getting up off his seat stooped down behind the foot-lights and took up a bottle which no one seen thrown but these redoubted Heroes, who have sworn to it; why has not Barton been brought forward here and produced? my client is taken and brought before the Police Magistrate, he is refused to be liberated on bail, he is rammed into prison. because he acknowledged he was an Orangeman! what has Mr. Forbes been accused of? he says, I was taken, and perhaps to morrow I may be indicted and sent to Botany Bay, I may be as good an Orangeman there. I regret that the Public Officer of the Crown, or any other State Officer, should think it necessary to bring forward any such prosecutions, for any state purposes; therefore when you are enquiring whether any man is guilty or not of the crime alluded to him, here evangelise your minds and banish state purposes from your view, and by the blessing of God my client shall be acquitted. The Attorney General ought to take care that he does not come under the recognizance of the House of Commons, for even the inmates of British Upper Gallery, have equal claims on the protection of the Law, as those that framed it.

It was always the practice in Theatres to give utterance to public and political feelings, expressed to the very utmost extent, short of a breach of the peace—but the Attorney-General sets up for a *reformer of the upper gallery*, a difficult task, I fear. I hope that for it he will not fall under the censure of the Parliamentary Reformers on the other side of the water he will presently tell us, I suppose, that whenever the Lord Lieutenant goes to the Theatre, the silence of *La Trappe* should reign around; but I hope that it is not the presence of the Lord Lieutenant, nay, not even the presence of the King himself, revered and honoured as he deserves to be, that will ever frown a British audience into *Eastern silence*. Had the trunk-maker, spoken of by Addison, in *The Spectator*, lived in our time, what would he have done—

he was partial to the Theatre, and frequently expressed his delight at the efforts of the actors, by striking his stick against the board—had he lived now, he would have been prosecuted with an *ex-officio* information! Let us suppose that the morning after Addison had published his *Trunk Maker*, Lord Somers, dropping in, was accosted by Addison—well, my Lord, said he, how do you like my lucubration of last night? Oh, very well, was the reply, but you have exposed your Trunk-Maker to a prosecution.—But perhaps had the Attorney General of that day, filed an *ex-officio* information against him, he would have made *more noise than work* of the transaction, or something similar to the present day. Lord Bolingbroke, against whose administration the tragedy of *Cato* had been written, was present at its first representation; and far from having been offended at the language and political allusions, that when the performance was over, he sent for Booth, and gave him his purse, containing sixty guineas, for having defended the cause of liberty between the Crown and People so well. We all know that when a Lord Lieutenant, the Duke of Rutland, went to the Theatre in this city, he was assailed with cries and questions about a certain female, named PEG PLUNKETT; the exclamation came from the upper gallery, too; and while the Duke had the *grace* to blush, he still had the good humour to smile. Even the haughty Elizabeth did not resist public opinion: after she had sacrificed the gallant Essex, she, while passing through the streets of her capital, was assailed with murmurs: she immediately retired to her bedchamber, wrung her hands, smote her breast, and acknowledged the justness of the censure she had received from the people. Mr. North next adverted to the O. P. riot in London—when the Foreman of the Jury who had acquitted the persons tried for a riot, when pressed by the Judge for his reasons, said, he did not think it right to punish a man for carrying a placard, inscribed, “O. P.” Gentlemen, he continued, I hope you will ever look with jealousy on any attempt to hinder the expression of public opinion. His Majesty’s Attorney-General would fain represent, that your verdict would forward the great cause of national conciliation—*pompous and lofty term!* But, Gentlemen, you will not suffer your judgments to be swayed by so captivating an argument. I have heard many nostrums proposed for the cure of Irish evils; not a Secretary have we had, for a long time, who had not his Cordial Balm of Gilead for the purpose. Mr. Owen now proposes to set every thing right, in this country, by cutting it up into little squares—and by increasing a population of seven, to seven-and-twenty millions; but of all the ridiculous nostrums proposed, none has been so absurd as the present project of promoting *conciliation* by the issue of an *ex-officio* information! I almost fancy I see the Council.

assembled to devise means for reconciling the people of Ireland to each other: call out the artillery, says the Commander of the Forces—(laughter;) apply the Police, says another, under Mr. Graves and Mr. Tudor; shuffle them together, says the Lord Mayor; Oh, no, says the Attorney-General, there is nothing in the world like an *ex officio* information!—(loud and repeated laughter.)

“A currier, far wiser than all put together,

“Said, try what you please, there’s nothing like leather.”

Gentlemen, let me not be misunderstood; let me not be supposed to mean any thing disrespectful to the parting injunction of our illustrious and beloved Sovereign. I remember his triumphant entrance into this great capital; it was as a fair morn of the blessed spring dawning upon the kingdom after a tedious and stormy night. At that period, Gentlemen, to what gay visions of hope did we deliver up our delighted imaginations; but why are the hopes of conciliation frustrated? Gentlemen, it is because the vain attempt is made to conciliate men by force. Men may be conciliated.

“When you are to their virtues kind,

“And to their faults a little blind.”

Gentlemen, your verdict of the acquittal of the traversers may do good; if you undeceive the Lord Lieutenant, and say, there was no conspiracy. He has said, let the assassin strike now—tell him, Gentlemen, that no dagger was aimed at his life, except the air-drawn dagger of his own imagination. Pronounce your verdict of acquittal; that verdict which to the last hour of your lives, will be approved of by your consciences, and at no distant period by the applauses of your country.

The Court adjourned.

While Thunders of applause burst forth when Mr. North sat down. We noticed the Attorney and Solicitor-General both shaking hands and complimenting him on his able and powerful exertion for his clients. As he passed from the Court to the robing room through the hall, he was recognized by the populace, who took off their hats and huzza’d him until they made the vaulted roof ring again.—Such was the conviction his words carried with them.

FOURTH DAY.

Robert Johnson, Esq. K. C. addressed the Court on behalf of James Forbes.

He said that this was a case wherein a Grand Jury, or at least 12 men on their oaths, had ignored the bills sent up to them, after a patient investigation and examination of every witness. He contended that the present was an unprecedented and illegal proceeding. With respect to the precedent quoted in the Commons Journals, he argued for a long time. Mr. Johnson referred to several authorities in support of his argument. It was, he said, mentioned by the Attorney-General, that the Court of King's Bench entertains applications in cases where bills have been ignored. This high Court has power over an *ex-officio* information, and he thought it probable that it would have quashed the information upon motion--he insisted there was no analogy in the argument between the power of the Attorney-General and the Court, with regard to the precedent quoted by the Attorney General. Dudley Moore insisted on a prologue been read; he went on the stage and repeated it, perhaps better than any of the actors would have done--he was proceeded against for a "late pretended riot in the theatre," on the 4th November, 1713 but for this present case he insisted there was no precedent--the appeal would have been made therefore, but that the traversers Counsel were satisfied they were safe in the protection of this Court. There was a record of the acquittal of the individuals by the Commission Grand Jury, which the Jury now before him would consider with due respect. He used the word not only in its ordinary, but also in its technical interpretation. He begged to state the facts which have taken place, and the charge brought against Mr. Forbes and contended that in law it was necessary to prove Mr. Forbes's peculiar knowledge for the purpose to conspire, which, he said, had not been done--Atkinson might have had the purpose, but to convict Mr. Forbes, his knowledge of that purpose should have been proved.

He read a document, an extract from the Court Almanack, published by authority, handing down to posterity the detail of the charge, viz. that on the 14th December an attack was made on the life of his Excellency by assassins. He (Mr. Forbes) said Mr. Johnson, has been confined in Newgate and punished by anticipation; he did not measure the pains of imprisonment by duration; one hour's imprisonment under such a charge was worse than a year's confinement under any other; he has suffered, and he is without a remedy. The Grand Jury ignored the bills; the Attorney-General instantly announced his intention to take this ultra proceeding; he was not in Court, but he was sure his speech had been grossly misrepresented, for he was satisfied he would not have pronounced Mr. Forbes and the others guilty by anticipation; he felt satisfied that he had not designated them a gang of ruffians, but had merely announced his intention of proceeding against the parties in this Court. There was not a tittle of evidence against Mr. Forbes that did not resolve itself into the evidence of two brothers (the Atkinsons) who, he thought, were not entitled to credit on their testimony, unless it was supported by other evidence. They derived their support from the Government; one held a place under it, and

ther had held a situation in an office which had been abolished, and they did not deny that they proved themselves the treacherous servants of that Government. Mr. Lowther swore his Excellency's intention to visit the theatre was announced on Thursday, and Atkinson swore that the conversation at the Snakspeare had ocured on Wednesday night or to speak more correctly, on Thursday morning. He called the attention of the Jury to another circumstance—the attempt to inform the Lord Lieutenant by a visit to the Park, sworn to by Atkinson and which Mr. Johnson assumed had not been true. It had he remarked, been no part of the agreement stated in the evidence of the Crown, that their purpose was to insult the Lord Lieutenant; and the fact of expression, “No true Orangeman would have thrown that bottle, if it was thrown,” was wrung from the evidence, he knew not why the bottle had not been seen in this Court, but at a distance in the hands of a policeman. He was at a loss to know why Mr. Barton had not been produced; he could have told the Jury that it came up with the lights; he could have told you other matters, and he has not been produced by the officers of the Crown. He next adverted to Captain Webster's testimony, which he was confident had its weight in their minds; he wished every other witness had sworn in the manner he had done; no sensation was created in the house until the bottle was held up, and Mr. Webster tells you there was an unanimous exclamation of “Shame, shame,” by all around the box. Is it possible Gentleman that those who thus cried “shame,” had been themselves the authors of the act. He alluded briefly to the indictment for a riot. They hissed and groaned the Lord Mayor, who had been censured by some of his fellow Citizens, and his Excellency came forward, and cheered the Lord Mayor; until that moment no expressions of censure were directed towards him, and the Jury would again remember the evidence, that there had been no intention to insult the Lord Lieutenant. In the O. P. row in Covent Garden Theatre, horns were blown, placards exhibited, and rattles sprung by the public, who took that method of expressing their indignation at the oppression of the manager, and yet in that case the Jury had declared there had been no riot, on the contrary, Mr. Clifford brought his action against the Magistrates who arrested him, and recovered damages on that very occasion. Mr. Johnson said he had witnesses to produce that the scene in the tavern had been misrepresented. He sat down satisfied as he said, that Mr. Forbes would be acquitted, for he felt convinced, he would never have been put on his trial but for the mistatements respecting the tavern scenes.

Mr. Scriven, for William Brownlow, addressed the Jury.

The Chief Justice asked the Attorney General if he wished to press for a conviction of Brownlow, he had no evidence of a witness connecting him with any of the transactions; the only evidence was, that in Essex-street, he was rebuked for not having been at his post, and he answered that he had been as well where he had been.

The Attorney-General—We agree with your Lordship on that single point, it is not our intention to press for a conviction of William Brownlow.

It was therefore announced by the Chief-Justice, that he had the Attorney-General's consent to charge the Jury to acquit the traverser.

The witnesses for the traversers were now produced, the first was

Fred. French, Esq. was examined by Mr. Blackburne.

He swore that he resides at Harewood, near Balinakill, in the Queen's County; has heard of, & knows the general character of Dr. Bernard M'Namara for about ten years; did not know him much personally; from his general character, that is the opinion of the world of him, he swears he would not believe him on his oath.

Cross examined by the Attorney General: he always avoided Dr. M' Namara he as a Magistrate, knew him; had a dislike to the man, founded on his conduct as it came before him—he is a troublesome and litigious character. Is clearly of opinion that his oath is not eligible in a Court of Justice; would rather, would absolutely disbelieve him on any question; had declared and declares, he thinks that his oath ought not to be credited; there is no charge of perjury against him, but there is a preparation for some proceedings about to be instituted and relative to some trials before Mr. Arabin. Witness referred to Mr. Arabin. whom the Attorney-General directed to be called. Witness continued—Dr. M'Namara has been often examined in the county, he is a warm tempered man, and witness believes he has many enemies in the country; if he had sworn falsely on any thing, witness would have been to convict him himself—witness was on the bench at the trial about breaking the pound and rescuing cattle; believes he (the Dr.) is in possession of a leasehold interest in the country; the trial at Ballinakill, on which witness and other Magistrates, convicted Dr. M'Namara for breaking a pound, he believes, he was tried for breaking open the pound, and driving out cattle, the cattle had been on the land before M' Namara took possession, he drove the tenants cattle before the rent was due, and put them in the pound; after having lodged them in the pound witness believes he broke open that pound and drove them out, although a detainer was lodged with the pound keeper: witness and the Bench of Magistrates convicted and sentenced him to three months imprisonment, and fined him 20l. (The witness became faint and asked for a glass of water.) That transaction, with other circumstances, contributed to operate on his mind when he gave the general impression of it respecting Mac-namara.

John Pounden, examined by *Mr. Perrin*—He has known James Forbes two or three years; & collects the evening of the 14th of December; saw Mr. Forbes at Flanagan's, in Essex-st. was in company with two gentlemen named Smith; recollected Mr. Forbes coming in; the box-room was very full; Mr. Forbes and others supped; witness sat within eight feet of the box;

Forbes was in the box opposite to him ; saw Mr. Farley and Mr. Troy in the room ; they sat opposite Mr. Forbes first ; afterwards went to sit in another box to sup ; heard a great deal of the conversation by the parties ; Forbes appeared much irritated ; Forbes drank the The King and many toasts ; he was not sober, and spoke in a loud voice witness did not hear Forbes say devil mend him or, exclaim against the Marquis Wellesly ; heard him say no true Orangman would throw the bottle ; he knew his voice ; did not hear him say next time they would take better aim ; does not believe it probable he could make use of the words without witness hearing it ; he went out with Forbes, but not in company with him ; they supped lower down than the first described box : Farley and Troy were then in their box.

Cross-examined by the Soliciter-General---He admitted that many expressions might have escaped him as he was in conversation with Mr. Smith ; Farley and Troy were more directly opposite to Mr. Forbes than the witness.

Benjamin Smith examined by Mr. Rolleston.—

He said he was Clerk in Finlay's Bank ; he said he had been in Flanagan's tavern on the night of the 14th of December ; Mr. Johu Pouden had joined witness before Mr. Forbes came in ; when he came Mr. Graham and Mr. M'Culloch were with him ; could hear every thing said by Mr. Forbes ; did not hear him say we'll take better aim next time, respecting the Lord Lieutenant ; heard him say he might have been a Protestant, we have many bad ones amongst us, but he was no Orangeman who threw the bottle.

Cross-examined by Mr. Serjeant Lefroy.

The two Atkinsons' were with Forbes, who appeared to be flushed and angry ; he said it was a pretty joke to be put into a Police Office, and John Smith Fleming ought to have known him better ; there was a conversation about the bottle, and something else which had been thrown ; witness went to the Theatre that night to the pit, by himself ; staid until the whole performance was over ; met W. Graham at the pit door going in ; the Lodge witness belongs to is 1612, Atkinson's Lodge ; has not attended the Lodge for six months ; does not doubt but he was at Daly's in Werburgh-street within the week before the 14th of December ; it was in the evening ; the Lodge sup together only on a purple lodge night, which meets quarterly in witness's lodge ; is constantly in the habit of going to Daly's ; is in doubt whether or not he had seen Forbes or Graham the week before the 14th Dec. ; cannot recollect ; heard a subscription rumoured—(that was objected to as not legal evidence ;) knows nothing of these subscriptions ; did not hear of them from Forbes or Graham.

Serjeant Lefroy.—Were you a stranger to the prisoner's intention of going to the theatre that night ?

Witness—I was ; he knew nothing of the hand-bills or pla-

eards; got one accidentally at the entrance to the theatre "about changing his Morning Tone;" does not know what it meant, it might have been the Lord Mayor, for aught he knew, that was what he read it, it was

"Ex Governor of the Bantams

"Shall change his Morning-tone."

Was told it was an allusion to the Lord Lieutenant; he (Forbes) said, whoever threw that bottle, was no Protestant, I am sure he was no Orangeman; it might have been a Protestant, he afterwards observed, for we have many bad ones amongst us. He swore the party at the tavern continued in the same box, and repeated on his oath, that they had punch and supped in the same box; he saw the cloth for supper on the table, and afterwards saw it off the table.

To a question from a juror, he swore again that Forbes and Gam sat in the same box the entire night, and did not leave

Mr. Charles Broad, examined by Mr. Perrin

He said that he was the prompter of the theatre; had made a plan of the theatre at the suggestion of the Crown Solicitor; Mr. Farrell called on him about the plan; he described that Hanbidge had sat as nearly as possible in the centre of the theatre, and between the two pillasters, to the left hand side of the upper gallery (a plan of the theatre was handed up;) rather thinks it is not a correct one; the partition was distant a fifth, and the half of a fifth between Hanbidge and the corner of the upper boxes; the parapet of the upper gallery, while standing up, would reach half way up his thigh; there are five seats in middle gallery, directly before the front of the parapet of the upper gallery, a plum-line would fall directly in front of the sixth seat, if dropped from the front of the upper gallery—he was not cross-examined.

The Dowager Lady Rosmore examined by Mr. Driscoll,

Her Ladyship said, she had sat in the box next to the Lord Lieutenant; heard a good deal of noise that night, but felt not the least alarm, (a universal laugh, in which her Ladyship joined;) sat on the second row, the farthest from the Lord Lieutenant; did not see a bottle; her sight is growing imperfect; could scarcely say she had seen a stick; was not in the least alarmed; the noise of the stick was very slight; often heard a great deal of noise when there was a very crowded House; she said the Lord Lieutenant was received with the greatest applause on his entrance.

Cross-examined by Serjent Torrens.

Lady Anne Gregory, Mrs. Goulborn and Miss Gregory, sat before her Ladyship. Mrs. Goulborn started back, for something had passed her; it fell in the box where Lady Rosmore was; Mrs. Goulborn seemed very much alarmed; as far as she could see, it had not the least effect on Lady Anne Gregory.

James Henry Borcas examined by Mr. Spear.

He was in the Upper Gallery the night in question. Saw Henry Hanbidge in the left hand side of the upper gallery, 5 or 6 yards from the end, should think he sat on the second bench from the front of the gallery ; saw a large stick and no bottle in his hand ; was distant from him only 7 paces ; witness sat on the third bench ; if he had stood up and thrown any thing, unquestionably he must have seen him, to the best of his belief it was impossible without having been observed by him ; there were no vacant places ; witness was squeezed exceedingly.

Cross-examined by the Attorney-General.

Went to the gallery about a quarter before 7, got in with difficulty ; made way to the third row ; thinks it a dozen paces from the centre to the extremity of the gallery ; H. Hanbidge attracted his attention immediately after the commencement of the play by calling out, God save the King, and song, song ; he kept his eye on him almost incessantly the entire evening ; got a glimpse of Mr. Liston ; saw the Lord Lieutenant very imperfectly ; kept looking at Henry Hanbidge, because he could see nothing else ; Hanbidge and many others in the gallery joined in the chorus ; he, Hanbidge roars most vociferously ; (roars of laughter ;) heard the Boyne Water, the Memory, and Down with the Ribbonmen, incessantly, that is, witness means very frequently ; heard down with the Papists ; the party abused the Pope a good deal ; a man gave a toast who had a bottle, that toast was, " Here's the Pope, bad luck to him, and all that wish him well."—Popish Wellesley, he is rather disposed to think applied to the Lord Lieutenant. —(Laughter.)—Thinks he heard a groan for the Lord Lieutenant ; is positive that meant Lord Wellesley ; *on his oath he does not believe there was a bottle thrown that night* ; there were no women in the gallery, he therefore thinks the rattle was thrown by a man or a boy ; never said to Alderman Darley, when he arrested Handbidge, you have arrested an innocent man ; heard no talk of any bottle been thrown when Alderman Darley came into the gallery ; heard many crying from the gallery, that's another calf's head plot ; witness was sure no Orangeman ever threw that bottle.

The Attorney-General—Did you ever say, when pointing to Hanbidge, there's the villian who thrêw the bottle ; never knew a person named McCan ; had a conversation with him, but not with respect to the bottle ; said outside the Police Office that the principal disturber was in custody, come in, I'll point him out ; for unquestionably he was the most noisy and troublesome man he ever laid his eyes on—(Laughter)—Hanbidge, the witness, swore, never left his place the entire night ; knows Mr. Gunning ; McCan said he played cards with the Lord Mayor ; spoke to Mr. Gunning about what passed in the theatre ; he said Lord Wellesley had drawn his sword in the theatre, and witness believes that is false.

The Attorney-General—Did you ever say to Mr. Gunning that you could almost prove the throwing of the bottle? Never.

Did you say to Mr. McCan there's the man who threw the bottle, pointing to Hanbidge? Never.

Never heard "look out boys," exclaimed in the gallery? The Police were not on the alert sufficiently to prevent noise, but exerted themselves to aid Alderman Darley.

Benjamin Rickey, Esq. Clerk of the Crown for the Commission, handed up the indictments that had been sent up against the traversers at the last commission, which were ignored, and proved them.

The Attorney-General objected to its being received, because he said it was not legal evidence.

Mr. Scriven argued on the point, so did *Mr. Perrin*, but the court decided that they could not be received.

Case closed for the traversers.

At three o'clock the Solicitor-General commenced his reply to evidence.—He congratulated the Jury and the Public that this very anxious trial was approaching to a conclusion; it was, he said, a trial that concerned his Majesty, and the injunctions of the *whole cabinet*; it is not the mere act of the Marquiss Wellesley, but of the King, and his whole Cabinet. The illustrious Nobleman has been insulted, and every thing was done to wound his feelings since the unfortunate occurrence in the Theatre, where an outrage took place, which not only disgraced this metropolis, but the whole country; it was right the extent and nature of the crime should be ascertained; with this proceeding associated and identified with his learned friend the Attorney-General; that they have discharged their duty efficiently it was not for him to say; however he would say they had discharged it honestly, and they would be fairly appreciated when prejudice had been dissipated; he was surprised it should be said in this court the proceedings were illegal.

Mr. Johnston told you that Sir M. Hale had said, the safest way was to proceed by indictment, yet he himself (Sir M.) therefore did not say that it was illegal. Blackstone tells you the power was originally reserved in the British Constitution, for the errors and mistakes of Grand Juries are provided for by the power of this Court. The proceeding now villified, is enjoyed by the King in common with his subjects, and the meanest individual amongst them. If the Attorney-General had not applied for this information, he himself (the Solicitor-General) had come forward, and his argument would be, that he had the door of the Grand Jury shut in his face—this door would then have been opened to him. Is it to be endured, because the Grand Jury should think fit not to entertain the question, that the Attorney-General should be deprived of filing that ex-officio information, founded by the law of the land.—He did not wish to allude to what took place before the Grand Jury, but if there ever was a case for sending men to trial, *this was that case*. A witness produced by the other side had said that he was examined before the Grand Jury at the Commission when indictments were sent before that Grand Jury against the

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FIFTH DAY, FRIDAY. FEB. 7.

At ten o'clock, the Solicitor-General resumed. He alluded to the case which had been adverted to, but not fairly, he said, stated by the learned Counsel on the other side. In all its parts he contended that the precedent of the ex-officio against Dudley, bore out the statement of the Learned Attorney General.—With regard to the *Learned* Counsel alluded to in Dudley's case, they were respectable men enough, but one was a Clerk of the Crown, and the other a Clerk in the King's Bench Office ; who merely said, that *they* had never known an indictment prepared which was pleaded to and afterwards quashed privately on his own motion, subsequently proceeded upon under an ex-officio information, and this is the high authority the Gentleman adverted to, simply because the persons alluded to said, *they never had heard* such a thing with all respect to the Grand Jury, he would say that the Petit Jury, are the Constitutional tribu-

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At Mrs. Flanagan's, it became the subject of conversation among the party, that Henry Hanbidge had been taken up for throwing the bottle, but not one in that company entertained the least doubt that a bottle had been thrown. You have, Gentlemen, said he, the phrase sworn to by Smith, that no Protestant could have thrown the bottle. Forbes, said, yes ; for we have among us some bad Protestants, but no true Orangeman could have thrown the bottle ; this proves that the bottle was thrown, for if the motive had been conceived innocent—if it had been merely an act done for the amusement of the audience, why feel it necessary to remove an imputation affixing disgrace, which they considered it did, by saying no true Orangeman had thrown the bottle ; this proves, that the motive of throwing the bottle, was not innocent. —(Here a Juror smiled.

The Attorney General in a low voice---The Juror does not seem to understand you.

The Solicitor-General---Have I made myself understood, Sir?
Juror---Perfectly.

The Solicitor-General contrasted the testimony of Mr. Troy with that of Mr. Brocas; alluded to the fury with which Mr. Forbes had expressed himself at Flanagan's, where he was described as raging like a madman. Some of the party, as it was sworn by Mr. Farley and Mr. Troy, said that the expression of 'a damned mis,' and 'a bloody mis,' was used. Gentlemen reflect, that the man who can restrain his tongue can put resentment upon his hands; the defence is, he is a warm man, but, gentlemen, if he meets you, and knocks your brains out in his warmth, he'll be very sorry for it the next morning. Mr. Troy, nor Mr. Farley, do not swear the phrase came from Mr. Forbes, but it came from one of the party. They produced Mr. Pouden and Mr. Smith---Mr. Pouden is asked, did you hear him say devil mend him? no, said he, but there might have been many expressions used which I did not hear. Did the Counsel on the other side ask him, did you hear the words, "it was a d---d mis?" Oh, no.—They asked did Mr. Forbes say, "we'll take a better aim another time." No the expression sworn to by the two witnesses was, "we'll be better prepared another time. Brocas swore that Hanbidge was the most noisy and troublesome man he had seen the whole night;---he added, that he had seen a bottle; and the other side don't attempt to show what became of it; that the rattle was flung, and respecting as to its destination, no man on earth can have the least doubt. Gentlemen, have they produced a single witness of the numerous audience in the theatre, to shew that these missiles had been thrown from some other part of the house, and you can have no doubt that they were thrown at the Lord Lieutenant. The Solicitor-General then said, in continuation, that with regard to G. Graham, there could be no doubt of his throwing the rattle---with respect to an assault, hold it in your recollection, Gentlemen that it is not reasoning that a missile flung must strike its destined object, to constitute an assault, and it is perfectly clear and plain, that there was an original design to commit the assault. It has been argued that it is a legitimate right possessed by every one to go to a theatre, make a noise and disturbance. He denied that, no one could go to a play-house to annoy, hiss, and hoot any man; auditors may approve of, or hiss an actor, if they like or dislike him, according to the opinion of his merits or demerits; but if they go there with a premeditated intent to hiss that actor, it is a conspiracy. Lord Liverpool, Lord Eldon, and Mr. Peel concurred---the entire of the Cabinet concur in recommending peace and unanimity between Catholics and Protestants; but is it for the Club in Werburgh-street to dispute that. In whose person have they attempted to commit the outrage. He would leave the eulogy of the Noble Lord at the head of this Government to some other person, but it was impossible at present not to remark on the faithful and upright manner in which that exalted individual had strictly, fairly and honourably discharged the im-

Forbes was in the box opposite to him ; saw Mr. Farley and Mr. Troy in the room ; they sat opposite Mr. Forbes first ; afterwards went to sit in another box to sup ; heard a great deal of the conversation by the parties ; Forbes appeared much irritated ; Forbes drank the The King and many toasts ; he was not sober, and spoke in a loud voice witness did not hear Forbes say devil mend him or, exclaim against the Marquis Wellesly ; heard him say no true Orangeman would throw the bottle ; he knew his voice ; did not hear him say next time they would take better aim ; does not believe it probable he could make use of the words without witness hearing it ; he went out with Forbes, but not in company with him ; they supped lower down than the first described box : Farley and Troy were then in their box.

Cross-examined by the Solicitor-General---He admitted that many expressions might have escaped him as he was in conversation with Mr. Smith ; Farley and Troy were more directly opposite to Mr. Forbes than the witness.

Benjamin Smith examined by Mr. Rolleston.—

He said he was Clerk in Finlay's Bank ; he said he had been in Flanagan's tavern on the night of the 14th of December ; Mr. John Pouden had joined witness before Mr. Forbes came in ; when he came Mr. Graham and Mr. M'Culloch were with him ; could hear every thing said by Mr. Forbes ; did not hear him say we'll take better aim next time, respecting the Lord Lieutenant ; heard him say he might have been a Protestant, we have many bad ones amongst us, but he was no Orangeman who threw the bottle.

Cross-examined by Mr. Serjeant Lefroy.

The two Atkinsons' were with Forbes, who appeared to be flushed and angry ; he said it was a pretty joke to be put into a Police Office, and John Smith Fleming ought to have known him better ; there was a conversation about the bottle, and something else which had been thrown ; witness went to the Theatre that night to the pit, by himself ; staid until the whole performance was over ; met W. Graham at the pit door going in ; the Lodge witness belongs to is 1612, Atkinson's Lodge ; has not attended the Lodge for six months ; does not doubt but he was at Daly's in Werburgh-street within the week before the 14th of December ; it was in the evening ; the Lodge sup together only on a purple lodge night, which meets quarterly in witness's lodge ; is constantly in the habit of going to Daly's ; is in doubt whether or not he had seen Forbes or Graham the week before the 14th Dec. ; cannot recollect ; heard a subscription rumoured — (that was objected to as not legal evidence ;) knows nothing of these subscriptions ; did not hear of them from Forbes or Graham.

Serjeant Lefroy.—Were you a stranger to the prisoner's intention of going to the theatre that night ?

Witness—I was ; he knew nothing of the hand-bills or pla-

cards; got one accidentally at the entrance to the theatre "about changing his Morning Tone;" does not know what it meant, it might have been the Lord Mayor, for aught he knew, that was what he read it, it was

"Ex Governor of the Bantams

"Shall change his Morning-tone."

Was told it was an allusion to the Lord Lieutenant he (Forbes) said, whoever threw that bottle, was no Protestant, I am sure he was no Orangeman; it might have been a Protestant, he afterwards observed, for we have many bad ones amongst us. He swore the party at the tavern continued in the same box, and repeated on his oath, that they had punch and supped in the same box; he saw the cloth for supper on the table, and afterwards saw it off the table.

To a question from a juror, he swore again that Forbes and Gam sat in the same box the entire night, and did not leave

Mr. Charles Broad, examined by Mr. Perrin

He said that he was the prompter of the theatre; had made a plan of the theatre at the suggestion of the Crown Solicitor; Mr. Farrell called on him about the plan; he described that Hanbidge had sat as nearly as possible in the centre of the theatre, and between the two pillasters, to the left hand side of the upper gallery (a plan of the theatre was handed up;) rather thinks it is not a correct one; the partition was distant a fifth, and the half of a fifth between Hanbidge and the corner of the upper boxes; the parapet of the upper gallery, while standing up, would reach half way up his thigh; there are five seats in middle gallery, directly before the front of the parapet of the upper gallery, a plum-line would fall directly in front of the sixth seat, if dropped from the front of the upper gallery—he was not cross-examined.

The Dowager Lady Rosmore examined by Mr. Driscoll.

Her Ladyship said, she had sat in the box next to the Lord Lieutenant; heard a good deal of noise that night, but felt not the least alarm, (a universal laugh, in which her Ladyship joined;) sat on the second row, the farthest from the Lord Lieutenant; did not see a bottle; her sight is growing imperfect; could scarcely say she had seen a stick; was not in the least alarmed; the noise of the stick was very slight; often heard a great deal of noise when there was a very crowded House; she said the Lord Lieutenant was received with the greatest applause on his entrance.

Cross-examined by Serjent Torrens.

Lady Anne Gregory, Mrs. Goulbourn and Miss Gregory, sat before her Ladyship. Mrs. Goulbourn started back, for something had passed her; it fell in the box where Lady Rosmore was; Mrs. Goulbourn seemed very much alarmed; as far as she could see, it had not the least effect on Lady Anne Gregory.

James Henry Borcas examined by Mr. Spear.

He was in the Upper Gallery the night in question. Saw Henry Hanbidge in the left hand side of the upper gallery, 5 or 6 yards from the end, should think he sat on the second bench from the front of the gallery; saw a large stick and no bottle in his hand; was distant from him only 7 paces; witness sat on the third bench; if he had stood up and thrown any thing, unquestionably he must have seen him, to the best of his belief it was impossible without having been observed by him; there were no vacant places; witness was squeezed exceedingly.

Cross-examined by the Attorney-General.

Went to the gallery about a quarter before 7, got in with difficulty; made way to the third row; thinks it a dozen paces from the centre to the extremity of the gallery; H. Hanbidge attracted his attention immediately after the commencement of the play by calling out, God save the King, and song, song; he kept his eye on him almost incessantly the entire evening; got a glimpse of Mr. Liston; saw the Lord Lieutenant very imperfectly; kept looking at Henry Hanbidge, because he could see nothing else; Hanbidge and many others in the gallery joined in the chorus; he, Hanbidge roars most vociferously; (roars of laughter;) heard the Boyne Water, the Memory, and Down with the Ribbonmen, incessantly, that is, witness means very frequently; heard down with the Papists; the party abused the Pope a good deal; a man gave a toast who had a bottle, that toast was, "Here's the Pope, bad luck to him, and all that wish him well."—Popish Wellesley, he is rather disposed to think applied to the Lord Lieutenant.—(Laughter.)—Thinks he heard a groan for the Lord Lieutenant; is positive that meant Lord Wellesley; *on his oath he does not believe there was a bottle thrown that night*; there were no women in the gallery, he therefore thinks the rattle was thrown by a man or a boy; never said to Alderman Darley, when he arrested Hanbidge, you have arrested an innocent man; heard no talk of any bottle been thrown when Alderman Darley came into the gallery; heard many crying from the gallery, that's another calf's head plot; witness was sure no Orangeman ever threw that bottle.

The Attorney-General—Did you ever say, when pointing to Hanbidge, there's the villian who threw the bottle: never knew a person named M'Can; had a conversation with him, but not with respect to the bottle; said outside the Police Office that the principal disturber was in custody, come in, I'll point him out; for unquestionably he was the most noisy and troublesome man he ever laid his eyes on—(Laughter)—Hanbidge, the witness, swore, never left his place the entire night; knows Mr. Gunning; M'Can said he played cards with the Lord Mayor; spoke to Mr. Gunning about what passed in the theatre; he said Lord Wellesley had drawn his sword in the theatre, and witness believes that is false.

The Attorney-General—Did you ever say to Mr. Gunning that you could almost prove the throwing of the bottle? Never.

Did you say to Mr. M'Can there's the man who threw the bottle, pointing to Hanbidge? Never.

Never heard "look out boys," exclaimed in the gallery? The Police were not on the alert sufficiently to prevent noise, but exerted themselves to aid Alderman Darley.

Benjamin Rickey, Esq. Clerk of the Crown for the Commission, handed up the indictments that had been sent up against the traversers at the last commission, which were ignored, and proved them.

The Attorney-General objected to its being received, because he said it was not legal evidence.

Mr. Scriven argued on the point, so did *Mr. Perrin*, but the court decided that they could not be received.

Case closed for the traversers.

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The Solicitor-General---Have I made myself understood, Sir?
Juror---Perfectly.

The Solicitor-General contrasted the testimony of Mr. Troy with that of Mr. Brocas; alluded to the fury with which Mr. Forbes had expressed himself at Flanagan's, where he was described as raging like a madman. Some of the party, as it was sworn by Mr. Farley and Mr. Troy, said that the expression of 'a damped mis,' and 'a bloody mis,' was used. Gentlemen reflect, that the man who can restrain his tongue can put resentment upon his hands; the defence is, he is a warm man, but, gentlemen, if he meets you, and knocks your brains out in his warmth, he'll be very sorry for it the next morning. Mr. Troy, nor Mr. Farley, do not swear the phrase came from Mr. Forbes, but it came from one of the party. They produced Mr. Pouden and Mr. Smith---Mr. Pouden is asked, did you hear him say devil mend him? no, said he, but there might have been many expressions used which I did not hear. Did the Counsel on the other side ask him, did you hear the words, "it was a d---d mis?" Oh, no.---They asked did Mr. Forbes say, "we'll take a better aim another time." No the expression sworn to by the two witnesses was, "we'll be better prepared another time. Brocas swore that Hanbidge was the most noisy and troublesome man he had seen the whole night;---he added, that he had seen a bottle; and the other side don't attempt to show what became of it; that the rattle was flung, and respecting as to its destination, no man on earth can have the least doubt. Gentlemen, have they produced a single witness of the numerous audience in the theatre, to shew that these missiles had been thrown from some other part of the house, and you can have no doubt that they were thrown at the Lord Lieutenant. The Solicitor General then said, in continuation, that with regard to G. Graham, there could be no doubt of his throwing the rattle---, with respect to an assault, hold it in your recollection, Gentlemen that it is not reasoning that a missile flung must strike its destined object, to constitute an assault, and it is perfectly clear and plain, that there was an original design to commit the assault. It has been argued that it is a legitimate right possessed by every one to go to a theatre, make a noise and disturbance. He denied that, no one could go to a play-house to annoy, hiss, and hoot any man; auditors may approve of, or hiss an actor, if they like or dislike him, according to the opinion of his merits or demerits; but if they go there with a premeditated intent to hiss that actor, it is a conspiracy. Lord Liverpool, Lord Eldon, and Mr. Peel concurred---the entire of the Cabinet concur in recommending peace and unanimity between Catholics and Protestants; but is it for the Club in Werburgh-street to dispute that. In whose person have they attempted to commit the outrage. He would leave the eulogy of the Noble Lord at the head of this Government to some other person, but it was impossible at present not to remark on the faithful and upright manner in which that exalted individual had strictly, fairly and honourably discharged the im-

portant duties of his high office since the first moment of his arrival in this kingdom. On his solemn word, he never yet saw a more truly, or strictly impartial individual in his life : his sole object was not to put down any party, but to deal justice to all--- With respect to the hand-bills or placards, he said, the Jury had it proved that they were showered down from the lettices, and that William Graham brought them into the house. The Solicitor-General concluded thus :---Gentlemen, I care not for your feelings out of Court ; I see twelve men on their oaths before me, and I call on you to perform your obligation. I mean not to impute any doubt of you, but instances have unfortunately before now occurred in the world, which have shewn that the solemn obligation has been violated. Gentlemen, I believe you incapable of any thing but justice ; the oath you have taken to act fairly, is an agreement between your God and yourselves, and I call upon you, as you hope for mercy hereafter, find your verdict.

The Solicitor General concluded at half past eleven :

The Lord Chief Justice proceeded to charge the Jury at 12 o'clock.

Gentlemen of the Jury, it now becomes the duty of the Court to call your attention—first, to your duty, and next, to the consideration of the question before you. There have been several topics introduced in discussion which are totally unconnected with the charge against the traversers. There is, first, the alleged illegality of the Ex Officio information ; but the question of its legality or illegality cannot be decided by your issue ; if it had been brought before the Court by a motion made for that purpose, it would then have been discussed, and we should have decided according to the best of our judgment. As that has not been done, and the plea of Not Guilty having been put in by the traversers, it remains for you, Gentlemen, to decide upon the guilt or innocence of the persons ; still, Gentlemen, I am free to tell you, that after a conference with my learned brethren, it is our opinion that the proceeding in this case by an Ex Officio information is perfectly legal. There is another topic which you must dismiss from your minds, namely, the ignoring of the bills by the Grand Jury ; it is not in evidence before you, and we have thought it right to reject it on that account. It is a fact that has taken place ; but still we must reject it. The Grand Jury acted upon their oaths, and you are to act upon yours. They, no doubt, acted upon the best of their judgment, but that judgment is not to influence yours. The third topic is the appeal to you in a political point of view. If political interests be involved in this trial, let that circumstance call upon you for a calm, just, serious, and dispassionate consideration of the case, but do not for a moment think that your verdict, whatever it may be, will have any such alarming effects as you have heard stated, if such an event should take place, that inestimable jewel in the British Crown, would lose its value, and cease to be useful ; I mean that great blessing of which we are possessed, Trial by Jury. If the

Legislature were to interfere with the administration of justice; there would be an end to all justice in this country; under a free Government every man has a right to express his opinions either by petition to the Throne, or to the Legislative body of the kingdom, every subject has the freedom of choice, and they enjoy that freedom by their rights as citizens of a free Government. When a Juror enters a Court of Justice, he should leave his political reflections at the threshold of that Court, in order that he may render justice to man and man in the particular case before him, and which he is bound to do by his oath; when taking the juror's oath, you appeal to Almighty God, in the simple and emphatic language of that oath "So help me God;" you call upon him to witness your solemn promise, as you hope for mercy and justice hereafter. Are you come to decide between Roman Catholic Emancipation, and Protestant Ascendancy? Are you sworn to decide whether discord or union are to be the effects of this prosecution? Certainly not.---I call upon you, Gentlemen, to decide according to the evidence that has been laid before you; after thus describing your duty, allow me to call your attention to the question now before you, which is this, are the traversers or any one of them guilty of the charge contained in the Informations?

These informations, if proved, contain as heavy a charge, as a charge amounting to a misdemeanour can be imagined. Upon the conspiracy information I shall trouble you with a few remarks: no count in that information states the conspiracy to be the single object, but that it was one of them. Now, Gentlemen, if any two of the Traversers', or one of them, without another, conspired either to make a riot, or to hiss and groan, or cause such hissing or groaning to take place, or to distribute placards, so as to instigate others to riot, or any one went to the Theatre in pursuance of their conspiring, I tell you, Gentlemen, if you believe the evidence proved, then you must perform your duty, and find them guilty.---In respect to the second information, if any three of the Traversers', or one with two, or two with one, or any number so as that there shall be three, did hiss, groan, or throw missiles, &c. if such has been proved, and you believe the evidence produced, you must find them guilty. A riot is a tumultuous disturbance of the peace by three or more persons, without lawful authority, so that his Majesty's peaceable subjects shall be rendered afraid of their lives and properties. In every riot, to constitute it one, there must be acts of force or violence, so as to put the public in fear of the consequences, and the Solicitor-General said, it is not necessary to strike; but if aim be taken for the purpose of striking, although it may not be effected, it is an assault, and if any promotes a riot by signs or gestures, he is guilty of that riot; and this, Gentlemen, is the deliberative opinion of the Court, supported by the highest authorities. If the evidence laid before you be true, it is sufficient to support these informations; of that you are to judge; to assist you I will recapitulate the evidence, but first allow me examine a doctrine laid down by one of the Traversers' Counsel, and which may

appear to be in opposition to what I have laid down ; he has stated that the people have a right to express their opinion in a Theatre—no such thing ; it would lead to evil consequences, if suffered to go abroad uncontradicted ; even in hissing actors, although noisy, they must not be riotous : and if that noise or tumult be the effect of a premeditated design, it is criminal, thus much as it relates to actors. If their censorial character is to be applied to public persons or public measures, the Theatre would become a factious den, instead of a place of well-cultivated amusement. What Father would bring his family to be annoyed by a ruffian, exasperated, perhaps by some public character, who has offended him, because he discharged his duty. There is in this respect no difference between a Theatre and this Court, more than the respect that should be paid to a Court of Justice. The evidence in this case is direct. Whether true or not, you, and you alone, are to judge. Evidence of a conspiracy must be circumstantial, unless the conspirators be overheard in their deliberations, or that one or more of their accomplices become approvers. Here the evidence is direct ; the **ATKINSON'S HAVE BETRAYED THEIR FRIENDS**, and such evidence must always be examined with great care ; there is also circumstantial evidence, and this you will examine also, and see how it assists the direct evidence of Atkinson. Now, Gentlemen, you have four questions ; and beyond these four, you have nothing to try. Do you believe there was a riot ? do you believe there was one, or more, or all the traversers concerned in this riot ? If then, you believe there was a riot, do you believe that it arose from any preconcerted conspiracy ? do you believe any, or all of the traversers were concerned in that conspiracy ? If you do, it will be your duty to tell me which of them were so concerned.—If you believe them guilty, pronounce them so ; if innocent, acquit them. If you have a rational doubt, give the prisoners the benefit of that doubt ; but if you act upon doubt, let it not be such as the mind of an ingenious man would create, but such as would present itself to the serious, just, honest, calm, and dispassionate mind of a man acting under the solemn obligation of an oath. I shall proceed to lay before you an abstract of the evidence, and then I shall recapitulate every particle, and I think it will be necessary to do this from the deranged and perplexed manner in which at present it must appear before you ; and here I must remark that an accomplice in crime, although a competent witness, the Jury alone must decide upon the credibility that is to be attached to his evidence, the Jury must decide upon his character, and upon that decide what attention is to be paid to his testimony ; approvers sometimes admit themselves guilty of great crimes, but although they are competent witnesses, yet if they are not supported, they ought to be believed ; (here the Chief Justice took a review of a robber or a murderer turning an approver,) and then proceeded ; although the Atkinsons' offence is not so great as one of those characters I have mentioned, nor perhaps have the same hopes of reward or an escape from punish-

ment, yet may they not be influenced by interested motives, and although they did not fear prosecutions, yet, perhaps, they may have expected situations.

You will, therefore consider how far they have been supported or contradicted—another circumstance urged against those persons, is, that they are said to be perfidious to their associates—if there be nothing else to effect their testimony, that is, no imputation. There is no man so depraved but must be supposed to speak truth, and the way to discover the better he does so, is by corroboration—the corroboration the Crown insists upon is, the placards—they contend that those placards are a proof of preconcerted riot; still there is no evidence produced as to what was the use of those placards, or who composed them.

The Chief Justice then proceeded to lay before the Jury, the evidence, as affected each Traverser, and then read his notes of the individual testimony, as well on the part of the Crown as for the Traversers.

Now, Gentlemen, I have thus stated the evidence produced, previous to which, I stated the law, as it affected this prosecution; it now remains for you to decide upon the guilt or innocence of the prisoners.

Mr. Justice Jebb. If there was any difference in the Court, as to the law on the evidence, it would be the duty of every member of the Bench to address you severally; but when no such difference exists, it would be a waste of the public time to trespass upon you longer. If I differed from the learned Lord who has addressed you, I should be guilty of a gross dereliction of my duty, if I did not mention it; or, if in the summing up of the evidence he had given to one part a colouring it would not bear, or had not stated another as it really appeared; I should then have paid no regard to your convenience, until I had endeavoured to set you right according to the best of my ability and judgement. I concur with him in the masterly arrangement he has made of the case, in the view of the topics which have been irrelevately introduced, and in the manner he has summed up the evidence; and I join with him, in requesting you to dismiss from your mind, every thing but that which immediately bears upon the case. My concurrence has not been produced hastily, but after the most mature deliberation, and after devoting my leisure hours each evening, when the business of the day was over, in calmly considering the evidence produced. In so doing, I have not bowed to the superior understanding of any person. I beg to repeat, that the result of my labours is a perfect concurrence with the Charge of the Lord Chief Justice.

Mr. Justice Burton and Mr. Justice Vandeleur, having expressed their concurrence with their learned Brethren.

At half-past three o'clock the Jury retired. At six, as they had not agreed, Mr. Justice Jebb ordered the Jury into the Court. The Foreman then said, they were likely to agree shortly. The Court adjourned. The Judges returned at a quarter before ten,

when the Traversers' names were called over. Mr. Justice Jebb, (when the Jury entered their box)—Gentlemen, have you agreed to your Verdict? The Foreman—No, my Lord, we have discussed the matter, but we have not agreed, nor are we likely to agree. The Jury retired.

Mr. Justice Jebb. Mr. Green, you are on the part of the Crown, what have you to say?

Mr. Green. In the absence of the Attorney General, and the chief Counsel for the Crown, I do not feel myself warranted in making any application to the Court.

Mr. Kemmis, Clerk of the Crown said, he had no authority to do any thing.

The Jury were recalled.

Mr. Justice Jebb. Gentlemen have you agreed?

The Foreman. No, my Lord, we have not.

Mr. Justice Jebb. Is there any probability of your agreeing?

The Foreman. No, my Lord, not the least.

Mr. Justice Jebb. As this is the case, the Court will adjourn to nine o'clock to-morrow morning. Mr. Sheriff, you will take care to keep the Court clear, and suffer no one near the Jury—Gentlemen retire.

A Bailiff was then called and sworn, to keep the Jury from all manner of easement, fire and candlelight only excepted. The Jury were allowed water.

Mr. Forbes and the other Defendants were continued on their recognizance, until the sitting of the Court; they were then told they may go away.

The Court adjourned at half past ten to nine o'clock on Saturday.

The Court was crowded to excess up to the last moment. At no period that we can remember, have we seen the Hall of the Four Courts, even at noon day, in midst of the busiest Term so densely filled up, as we witnessed it at near eleven o'clock this night, without so much as a farthing candle to light it. Were it not for the great crowd of anxious friends of the Traversers', the majority would find it extremely difficult to make their way into the open air. Several skirmishes took place between the populace and the police, in the course of the night, striving to make their way to the Inner Court.

SIXTH DAY.

At 20 minutes past ten o'clock, Mr. Justice Jebb, Mr. Justice Burton, and Mr. Justice Vandeleur took their seats on the bench. The Attorney and Solicitor General entered the Court at the same time.

Mr. Justice Jebb. Mr. Sheriff ask the Jury if they have agreed. The High Sheriff went to the Jury Room, returning said, No, my Lord, they have not, nor cannot agree. Justice

Jebb. Mr. Attorney General you have heard the answer of the Jury. Attorney General, I have my Lord, perhaps your Lordship would think proper to enquire, if there be a difference on any points of law, which your Lordship could explain, we of Counsel for the Crown do not think it right to interfere my Lord.

Justice Jebb. Mr. Attorney-General, I think that the evidence has been so fully and fairly explained by the Lord Chief Justice, and the points of law so distinctly and explicitly defined, that I fear the Court cannot give the Gentlemen of the Jury any farther assistance. I shall ask them if they have agreed as to any of the traversers. Attorney-General. In this case, my Lord, I have not any desire that the Jury should be called out at all, the Jury have not yet agreed my Lord. Justice Jebb. Let the Jury be called out. The traversers were called, and appeared, they took their seats on the bench which had been appropriated for their use during the trial, and which was erected on the left side of the Court from the bench, and within the Lawyers' bar. The Jury came into Court, they answered to their names. Mr. Francis Mills, Foreman, resumed the seat he had occupied during the trial, next to the Judges, the four next Jurors had sat in the same row with him, viz.: First. Mr. Francis Mills, Mr. James Wyon, Mr. Abraham Hargrave, and Mr. Edward Armstrong. On the second row sat Mr. Neal M'Kenny, on the extreme right next him, Mr. Thomas Fry, Mr. John Baker, Mr. Thomas Parker. Behind them were, Mr. John Caldwell, Mr. Richard Dollard, Mr. Richard Annesley, and Mr. Isaac Tyndall. All the Jurors took possession of the places they had occupied during the five preceding days. Mr. Justice Jebb. Gentlemen, have you agreed? The Foreman. We have not my Lord. Justice Jebb. We wish to know if there be any difficulty relative to a point of law which we could explain to you. A Juror at the back of the box replied in a loud voice, we have no difficulty on any point of law whatever. Justice Jebb. Gentlemen, have you agreed as to any of the traversers? Foreman. *We have my Lord, as to William Brownlow.* Justice Jebb. Gentlemen, (to the Jury) you may retire. Attorney-General, To the chamber my Lord. Justice Jebb. Oh, yes, certainly to the chamber. The Jury retired. The Attorney and Solicitor Generals bowed and withdrew.

Justice Jebb. Mr. R. Johnston, Mr. Scriven, Mr. Perrin, on the part of the traversers, have you any thing to move; These learned gentlemen answered, no, my Lord. Here the Court ordered the seats of the outer bar to be cleared for the lawyers. The traversers remained on the bench. The Attorney and Solicitor General, returned, having been absent only a few minutes. Attorney-General. My Lords, I wish to mention that, as the Jury have declared they cannot agree, I shall not on the part of the Crown stand in the way of any thing which your Lordships may think fit to adopt.

Justice Jebb. The Court have the power to discharge the Jury when the period arrives appointed by law, but as the counsel for the

traversers do not make any objection, we are at liberty to discharge the Jury now. The Attorney-General. The traversers will understand that the trial not having been disposed of, and the effect being to leave the case yet open, they will be still held over on their bail, for most undoubtedly this case shall again be brought before the public. As to the time for a new trial, my Lords, I beg your Lordships will understand that I have not intimated any period, it would be too late for this Term. Justice Jebb. From the state of the Court, not this Term. Attorney-General. Certainly not, my Lord. The Jury were again called over, and asked if they agreed; they said not; but they returned a verdict of *Not Guilty for Mr. William Brownlow, who was discharged.*

Justice Jebb. Gentlemen of the Jury, the Counsel for the Crown, finding that you are not likely to agree, have not offered any obstacles in the way of your discharge, you are accordingly discharged.

Attorney-General, I do not mean to interfere with the gentlemen of the Jury, I only wish to intimate that nothing which has occurred, impedes my taking further proceedings against the traversers, in case I should be advised so to do. The traversers were then informed, that they would be still held on their recognizances, and were allowed to withdraw.

☞ We understand from good authority, that the Jury, who were all composed of Citizens of the highest respect and character, were for acquitting the Traversers, all but ONE; this, with the conduct of the former Grand Jury, must convince the public, it was all a BOTTLE OF SMOKE!!!

FINIS.



